



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

An Act to consolidate the Merchant Shipping Acts 1894 to 1994 and other enactments relating to merchant shipping. [19th July 1995]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Extent Information

**E1** Act extends to U.K. except for ss. 18, 193(5), 68, 208 and 210; see [ss. 315\(1\), 68\(5\), 208\(5\)](#) and 210(11) respectively

### Modifications etc. (not altering text)

**C1** [Act](#) power to modify or apply conferred (30.3.2006) by [Merchant Shipping \(Pollution\) Act 2006 \(c. 8\), s. 1\(5\)\(b\)](#)

### Commencement Information

**II** Act not in force at Royal Assent; Act in force on 1.6.1996 see [s. 316\(2\)](#) (subject as mentioned in ss. 182, 314, Sch. 14 para. 5)

## PART I

### BRITISH SHIPS

#### 1 **British ships and United Kingdom ships.**

(1) A ship is a British ship if—

- (a) the ship is registered in the United Kingdom under Part II; or
- (b) the ship is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council under section 308; or

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- (c) the ship is registered under the law of a relevant British possession; or
  - (d) the ship is a small ship other than a fishing vessel and—
    - (i) is not registered under Part II, but
    - (ii) is wholly owned by qualified owners, and
    - (iii) is not registered under the law of a country outside the United Kingdom.
- (2) For the purposes of subsection (1)(d) above—
- “qualified owners” means persons of such description qualified to own British ships as is prescribed by regulations made by the Secretary of State for the purposes of that paragraph; and
- “small ship” means a ship less than 24 metres in length (“length” having the same meaning as in the tonnage regulations).
- (3) A ship is a “United Kingdom ship” for the purposes of this Act (except section 85 and 144(3)) if the ship is registered in the United Kingdom under Part II (and in Part V “United Kingdom fishing vessel” has a corresponding meaning).

## **2 British flag.**

- (1) The flag which every British ship is entitled to fly is the red ensign (without any defacement or modification) and, subject to subsections (2) and (3) below, no other colours.
- (2) Subsection (1) above does not apply to Government ships.
- (3) The following are also proper national colours, that is to say—
  - (a) any colours allowed to be worn in pursuance of a warrant from Her Majesty or from the Secretary of State;
  - (b) in the case of British ships registered in a relevant British possession, any colours consisting of the red ensign defaced or modified whose adoption for ships registered in that possession is authorised or confirmed by Her Majesty by Order in Council.
- (4) Any Order under subsection (3)(b) above shall be laid before Parliament after being made.

## **3 Offences relating to British character of ship.**

- (1) If the master or owner of a ship which is not a British ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a British ship then, except as provided by subsections (2) and (3) below, the ship shall be liable to forfeiture and the master, the owner and any charterer shall each be guilty of an offence.
- (2) No liability arises under subsection (1) above where the assumption of British nationality has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.
- (3) Where the registration of any ship has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the ship within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (1) above.

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- (4) If the master or owner of a British ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship shall be liable to forfeiture and the master, the owner and any charterer of the ship shall each be guilty of an offence.
- (5) Without prejudice to the generality of subsections (1) and (4) above, those subsections apply in particular to acts or deliberate omissions as respects—
  - (a) the flying of a national flag;
  - (b) the carrying or production of certificates of registration or other documents relating to the nationality of the ship; and
  - (c) the display of marks required by the law of any country.
- (6) Any person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to [<sup>F1</sup>a fine not exceeding £50,000][<sup>F1</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (7) This section applies to things done outside, as well as to things done within, the United Kingdom.

#### Textual Amendments

- F1** Words in s. 3(6)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(2\)](#) (with reg. 5(1))

#### 4 Penalty for carrying improper colours.

- (1) If any of the following colours, namely—
  - (a) any distinctive national colours except—
    - (i) the red ensign,
    - (ii) the Union flag (commonly known as the Union Jack) with a white border, or
    - (iii) any colours authorised or confirmed under section 2(3)(b); or
  - (b) any colours usually worn by Her Majesty's ships or resembling those of Her Majesty, or
  - (c) the pendant usually carried by Her Majesty's ships or any pendant resembling that pendant,are hoisted on board any British ship without warrant from Her Majesty or from the Secretary of State, the master of the ship, or the owner of the ship (if on board), and every other person hoisting them shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (3) If any colours are hoisted on board a ship in contravention of subsection (1) above, any of the following, namely—
  - (a) any commissioned naval or military officer,
  - (b) any officer of customs and excise, and

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(c) any British consular officer,  
may board the ship and seize and take away the colours.

(4) Any colours seized under subsection (3) above shall be forfeited to Her Majesty.

(5) In this section “colours” includes any pendant.

## **5 Duty to show British flag.**

(1) Subject to subsection (2) below, a British ship, other than a fishing vessel, shall hoist the red ensign or other proper national colours—

- (a) on a signal being made to the ship by one of Her Majesty’s ships (including any ship under the command of a commissioned naval officer); and
- (b) on entering or leaving any foreign port; and
- (c) in the case of ships of 50 or more tons gross tonnage, on entering or leaving any British port.

(2) Subsection (1)(c) above does not apply to a small ship (as defined in section 1(2)) registered under Part II.

## **6 Duty to declare national character of ship.**

(1) An officer of customs and excise shall not grant a clearance or transire for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that the ship belongs, and that officer shall thereupon enter that name on the clearance or transire.

(2) If a ship attempts to proceed to sea without such clearance or transire, the ship may be detained until the declaration is made.

## **7 Proceedings on forfeiture of a ship.**

(1) Where any ship has either wholly or as to any share in it become liable to forfeiture under this Part—

- (a) any commissioned naval or military officer, or
  - (b) any person appointed by the Secretary of State for the purposes of this section;
- may seize and detain the ship and bring the ship for adjudication before the court.

(2) Where a ship is subject to adjudication under this section the court may—

- (a) adjudge the ship and her equipment to be forfeited to Her Majesty; and
- (b) make such order in the case as seems just.

(3) No officer or person bringing proceedings under this section shall be liable in damages in respect of the seizure or detention of the ship, notwithstanding that the ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the court is satisfied that there were reasonable grounds for the seizure or detention.

(4) If the court is not so satisfied the court may award costs (or in Scotland expenses) and damages to the party aggrieved and make such other order as the court thinks just.

(5) In this section “the court” means the High Court or, in Scotland, the Court of Session.

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## PART II

### REGISTRATION

#### *General*

#### **8 Central register of British ships.**

- (1) There shall continue to be a register of British ships for all registrations of ships in the United Kingdom.
- (2) The register shall be maintained by the Registrar General of Shipping and Seamen as registrar.
- (3) The Secretary of State may designate any person to discharge, on behalf of the registrar, all his functions or such of them as the Secretary of State may direct.
- (4) The Secretary of State may give to the registrar directions of a general nature as to the discharge of any of his functions.
- (5) The register shall be so constituted as to distinguish, in a separate part, registrations of fishing vessels and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships.
- (6) The register shall be maintained in accordance with registration regulations and the private law provisions for registered ships and any directions given by the Secretary of State under subsection (4) above.
- (7) The register shall be available for public inspection.

#### **9 Registration of ships: basic provisions.**

- (1) A ship is entitled to be registered if—
  - (a) it is owned, to the prescribed extent, by persons qualified to own British ships; and
  - (b) such other conditions are satisfied as are prescribed under subsection (2)(b) below;(and any application for registration is duly made).
- (2) It shall be for registration regulations—
  - (a) to determine the persons who are qualified to be owners of British ships, or British ships of any class or description, and to prescribe the extent of the ownership required for compliance with subsection (1)(a) above;
  - (b) to prescribe other requirements designed to secure that, taken in conjunction with the requisite ownership, only ships having a British connection are registered.
- (3) The registrar may, nevertheless, if registration regulations so provide, refuse to register or terminate the registration of a ship if, having regard to any relevant requirements of this Act, he considers it would be inappropriate for the ship to be or, as the case may be, to remain registered.
- (4) The registrar may, if registration regulations so provide, register a fishing vessel notwithstanding that the requirement of subsection (1)(a) above is not satisfied in

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relation to a particular owner of a share in the vessel if the vessel otherwise has a British connection.

- (5) Where a ship becomes registered at a time when it is already registered under the law of a country other than the United Kingdom, the owner of the ship shall take all reasonable steps to secure the termination of the ship's registration under the law of that country.
- (6) Subsection (5) above does not apply to a ship which becomes registered on a transfer of registration to the register from a relevant British possession.
- (7) Any person who contravenes subsection (5) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) In this section “the relevant requirements of this Act” means the requirements of this Act (including requirements falling to be complied with after registration) relating to—
  - (a) the condition of ships or their equipment so far as relevant to their safety or any risk of pollution; and
  - (b) the safety, health and welfare of persons employed or engaged in them.
- (9) In this Part references to a ship's having a British connection are references to compliance with the conditions of entitlement imposed by subsection (1)(a) and (b) above and “declaration of British connection” is to be construed accordingly.

## **10 Registration regulations.**

- (1) The Secretary of State shall by regulations (to be known as registration regulations) make provision for and in connection with the registration of ships as British ships.
- (2) Without prejudice to the generality of subsection (1) above, registration regulations may, in particular, make provision with respect to any of the following matters—
  - (a) the persons by whom and the manner in which applications in connection with registration are to be made;
  - (b) the information and evidence (including declarations of British connection) to be provided in connection with such applications and such supplementary information or evidence as may be required by any specified authority;
  - (c) the shares in the property in, and the numbers of owners (including joint owners) of, a ship permitted for the purposes of registration and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;
  - (d) the issue of certificates (including provisional certificates) of registration, their production and surrender;
  - (e) restricting and regulating the names of ships registered or to be registered;
  - (f) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;
  - (g) the period for which registration is to remain effective without renewal;
  - (h) the production to the registrar of declarations of British connection or other information relating thereto, as respects registered ships, at specified intervals or at his request;
  - (i) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;

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- (j) the refusal, suspension and termination of registration in specified circumstances;
- (k) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
- (l) the charging of fees in connection with registration or registered ships;
- (m) the transfer of the registration of ships to and from the register from and to registers or corresponding records in countries other than the United Kingdom;
- (n) inspection of the register;
- (o) any other matter which is authorised or required by this Part to be prescribed in registration regulations;

but no provision determining, or providing for determining, the fees to be charged or prescribing any arrangements for their determination by other persons shall be made without the approval of the Treasury.

- (3) Registration regulations may—
  - (a) make different provision for different classes or descriptions of ships and for different circumstances;
  - (b) without prejudice to paragraph (a) above, make provision for the granting of exemptions or dispensations by the Secretary of State from specified requirements of the regulations, subject to such conditions (if any) as he thinks fit to impose; and
  - (c) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient, including provision authorising investigations and conferring powers of inspection for verifying the British connection of a ship.
- (4) Registration regulations—
  - (a) may make provision for the registration of any class or description of ships to be such as to exclude the application of the private law provisions for registered ships and, if they do, may regulate the transfer, transmission or mortgaging of ships of the class or description so excluded;
  - (b) may make provision for any matter which is authorised or required by those provisions to be prescribed by registration regulations; and
  - (c) shall make provision precluding notice of any trust being entered in the register or being receivable by the registrar except as respects specified classes or descriptions of ships or in specified circumstances.
- (5) Registration regulations may create offences subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale.
- (6) Registration regulations may provide for—
  - (a) the approval of forms by the Secretary of State; and
  - (b) the discharge of specified functions by specified authorities or persons.
- (7) Registration regulations may provide for any of their provisions to extend to places outside the United Kingdom.
- (8) Any document purporting to be a copy of any information contained in an entry in the register and to be certified as a true copy by the registrar shall be evidence (and, in Scotland, sufficient evidence) of the matters stated in the document.

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- (9) Registration regulations may provide that any reference in any other Act or in any instrument made under any other Act to the port of registry or the port to which a ship belongs shall be construed as a reference to the port identified by the marks required for the purpose by registration regulations.

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

- C2** S. 10(2)(f) amended (1.7.1999) by [S.I. 1999/1750](#), arts. 1(1), 4, [Sch. 3](#); [S.I. 1998/3178](#), [art. 3](#)  
S. 10(2)(f) modified (1.7.1999) by [S.I. 1999/1756](#), arts. 1(1), 2, [Sch. para. 17](#); [S.I. 1998/3178](#), [art. 3](#)

**11 Tonnage ascertained for registration to be tonnage of ship.**

When the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations that tonnage shall be treated as the tonnage of the ship except so far as registration regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly.

**12 Tonnage of ships of foreign countries adopting tonnage regulations.**

- (1) Her Majesty may by Order in Council make such provision in relation to the ships of a foreign country as is authorised by this section where it appears to Her that the tonnage regulations have been adopted by the foreign country and are in force there.
- (2) An Order under this section may order that the ships of the foreign country shall, without being re-measured in the United Kingdom, be treated as being of the tonnage denoted by their certificates of registration or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registration of a United Kingdom ship is treated as being the tonnage of that ship.
- (3) Where an Order under this section is in force in relation to the ships of any country any space shown in the ship's certificate of registration or other national papers as deducted from the tonnage shall, if a similar deduction in the case of a United Kingdom ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be treated as complying with those conditions and as being so evidenced, unless a surveyor of ships certifies to the Secretary of State that the construction and equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a United Kingdom ship.
- (4) Any such Order may—
- (a) operate for a limited time; and
  - (b) be subject to such conditions and qualifications (if any) as Her Majesty may consider expedient.
- (5) If it appears to Her Majesty that the tonnage of any foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the tonnage regulations, Her Majesty may by Order in Council order that, notwithstanding any Order in Council in force under this section, any of the ships of that country may, for all or any of the purposes of this Act, be re-measured in accordance with the tonnage regulations.



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### **13 Status of certificate of registration.**

The certificate of registration of a British ship shall be used only for the lawful navigation of the ship, and shall not be subject to detention to secure any private right or claim.

### **14 Offences relating to a ship's British connection.**

- (1) Any person who, in relation to any matter relevant to the British connection of a ship—
  - (a) makes to the registrar a statement which he knows to be false or recklessly makes a statement which is false; or
  - (b) furnishes to the registrar information which is false,shall be guilty of an offence.
- (2) If at any time there occurs, in relation to a registered ship, any change affecting the British connection of the ship the owner of the ship shall, as soon as practicable after the change occurs, notify the registrar of that change; and if he fails to do so he shall be guilty of an offence.
- (3) Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the British connection of a ship and which he has been required to produce to the registrar in pursuance of registration regulations shall be guilty of an offence.
- (4) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (5) This section applies to things done outside, as well as to things done within, the United Kingdom.

### **15 Supplementary provisions as respects fishing vessels.**

- (1) Subject to subsection (2) below, if a fishing vessel which—
  - (a) is either—
    - (i) entitled to be registered, or
    - (ii) wholly owned by persons qualified to be owners of British ships, but
  - (b) is registered neither under this Act in the part of the register relating to fishing vessels nor under the law of any country outside the United Kingdom,fishes for profit the vessel shall be liable to forfeiture and the skipper, the owner and the charterer of the vessel shall each be guilty of an offence.
- (2) Subsection (1) above does not apply to fishing vessels of such classes or descriptions or in such circumstances as may be specified in regulations made by the Secretary of State.
- (3) If the skipper or owner of a fishing vessel which is not registered in the United Kingdom does anything, or permits anything to be done, for the purpose of causing the vessel to appear to be a vessel registered in the United Kingdom, then, subject to subsection (4) below, the vessel shall be liable to forfeiture and the skipper, the owner and any charterer of the vessel shall each be guilty of an offence.

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- (4) Where the registration of a fishing vessel has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the fishing vessel within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (3) above.
- (5) Any person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to [<sup>F2</sup>a fine not exceeding £50,000][<sup>F2</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (6) Proceedings for an offence under this section shall not be instituted—
- (a) in England and Wales, except by or with the consent of the Attorney [<sup>F3</sup>General or] the Secretary of State <sup>F4</sup>. . . ; or
  - (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland, the Secretary of State or the Minister.
- (7) In subsection (6) above “the Minister”—
- <sup>F5</sup>(a) . . . . .
  - (b) in relation to Northern Ireland, means the Secretary of State concerned with sea fishing in Northern Ireland.
- (8) This section applies to things done outside, as well as to things done within, the United Kingdom.
- (9) Sections 8 and 9 of the <sup>M1</sup>Sea Fisheries Act 1968 (general powers of British sea-fishery officers and powers of sea-fishery officers to enforce conventions) shall apply in relation to any provision of this section or of registration regulations in their application to fishing vessels or fishing vessels of any class or description as they apply in relation to any order mentioned in section 8 of that Act and in relation to any convention mentioned in section 9 of that Act respectively; and sections 10 to 12 and 14 of that Act (offences and supplemental proceedings as to legal proceedings) shall apply accordingly.

#### Textual Amendments

- F2** Words in s. 15(5)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\), reg. 1\(1\), Sch. 4 para. 27\(3\)](#) (with [reg. 5\(1\)](#))
- F3** Words in s. 15(6)(a) substituted (27.3.2002) by 2002/794, art. 5(1), Sch. 1 para. 36 (with arts. 5(3), 6)
- F4** Words in s. 15(6)(a) repealed (27.3.2002) by 2002/794, art. 5(2), Sch. 2 (with art. 6)
- F5** S. 15(7)(a) and the word “and” at the end of the para. repealed (27.3.2002) by [S.I. 2002/794, art. 5\(2\), Sch. 2](#) (with [art. 6](#))

#### Marginal Citations

- M1** 1968 c. 77.

## 16 Private law provisions for registered ships and liability as owner.

- (1) Schedule 1 (which makes provision relating to the title to, and the registration of mortgages over, ships) shall have effect.

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- (2) Schedule 1 does not apply in relation to ships which are excluded from its application by registration regulations under section 10(4)(a).
- (3) Where any person is beneficially interested, otherwise than as mortgagee, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be liable to any pecuniary penalties imposed by or under this Act or any other Act on the owners of registered ships.
- (4) Where the registration of any ship terminates by virtue of any provision of registration regulations, the termination of that registration shall not affect any entry made in the register so far as relating to any undischarged registered mortgage of that ship or of any share in it.
- (5) In subsection (4) above “registered mortgage” has the same meaning as in that Schedule.
- (6) In this Part “the private law provisions for registered ships” means the provisions of Schedule 1 and registration regulations made for the purposes of that Schedule or the provisions of registration regulations made under section 10(4)(a).

#### *Ships on bareboat charter*

### **17 Ships bareboat chartered-in by British charterers.**

- (1) This section applies to any ship which—
  - (a) is registered under the law of a country other than the United Kingdom (“the country of original registration”),
  - (b) is chartered on bareboat charter terms to a charterer who is a person qualified to own British ships, and
  - (c) is so chartered in circumstances where the conditions of entitlement to registration prescribed under section 9(2)(b), read with the requisite modifications, are satisfied as respects the charterer and the ship.
- (2) The “requisite modifications” of those conditions are the substitution for any requirement to be satisfied by or as respects the owner of a ship of a corresponding requirement to be satisfied by or as respects the charterer of the ship.
- (3) A ship to which this section applies is entitled to be registered if an application for registration is duly made, but section 9(3) applies also in relation to registration by virtue of this section.
- (4) The registration of a ship registered by virtue of this section shall remain in force (unless terminated earlier by virtue of registration regulations and subject to any suspension thereunder) until the end of the charter period and shall then terminate by virtue of this subsection.
- (5) Section 9(5) does not apply to a ship registered by virtue of this section but registration regulations shall include provision for securing that the authority responsible for the registration of ships in the country of original registration is notified of the registration of the ship and of the termination of its registration whether by virtue of subsection (4) above or registration regulations.
- (6) Accordingly, throughout the period for which a ship is registered by virtue of this section—

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- (a) the ship shall, as a British ship, be entitled to fly the British flag;
  - (b) this Act shall, subject to subsections (7) and (8) below, apply to the ship as a British ship or as a registered ship as it applies to other British ships and to registered ships; and
  - (c) any other enactment applicable to British ships or ships registered under this Act shall, subject to subsection (8) below, apply to the ship as a British ship or as a registered ship.
- (7) The private law provisions for registered ships shall not apply to a ship registered by virtue of this section and any matters or questions corresponding to those for which the private law provisions for registered ships make provision shall be determined by reference to the law of the country of original registration.
- (8) Her Majesty may, subject to subsection (9) below, by Order in Council, provide that any enactment falling within subsection (6)(b) or (c) above—
- (a) shall not have effect in accordance with that subsection in relation to a ship registered by virtue of this section, or
  - (b) shall so have effect subject to such modifications (if any) as may be specified in the Order.
- (9) No provision shall be made by an Order in Council under subsection (8) above which would have the effect of relaxing the relevant requirements of this Act (as defined in section 9(8)) in their application to a ship to which this section applies.
- (10) An Order in Council under subsection (8) above may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient (including provision divesting or providing for the divestment of ownership in the ship).
- (11) In this section—
- “bareboat charter terms”, in relation to a ship, means the hiring of the ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew; and
  - “the charter period” means the period during which the ship is chartered on bareboat charter terms.

### *Supplemental*

## **18 Regulation of registration in British possessions by reference to categories of registries.**

- (1) Her Majesty may by Order in Council make provision for regulating the registration in relevant British possessions of ships other than small ships and fishing vessels by reference to categories of registries established by the Order.
- (2) Any such Order may—
- (a) establish different categories of registries to which different restrictions on the registrations of ships in such possessions apply, being restrictions framed by reference to—
    - (i) ships’ tonnages, or
    - (ii) types of ships, or
    - (iii) any other specified matter, or

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- (iv) any combination of matters falling within one or more of the preceding sub-paragraphs,  
as well as a category of registries to which no such restriction applies;
  - (b) assign any relevant British possession to such one of the categories so established as appears to Her Majesty to be appropriate;
  - (c) provide that, where a relevant British possession has been assigned to a category to which any such restriction on registration as is mentioned in paragraph (a) applies, no ship covered by that restriction shall be registered under the law of that possession;
  - (d) specify circumstances in which ships may be exempted from any provision made by virtue of paragraph (c) above.
- (3) Any provision made by virtue of subsection (2)(c) above shall be expressed to be without prejudice to the operation of any provision for the time being in force under the law of any such possession as is mentioned in subsection (2)(c) above by virtue of which the registration of ships in that possession is, or may be, further restricted.
- (4) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.
- (5) In this section “small ship” has the meaning given by section 1(2).

## **19 Tonnage regulations.**

- (1) The tonnage of any ship to be registered under this Part shall be ascertained in accordance with regulations made by the Secretary of State (“tonnage regulations”).
- (2) Tonnage regulations—
- (a) may make different provisions for different descriptions of ships or for the same description of ships in different circumstances;
  - (b) may make any regulation dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;
  - (c) may prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage and may provide for making the master and the owner each liable to a fine not exceeding level 3 on the standard scale where such a prohibition or restriction is contravened.
- (3) Tonnage regulations may make provision—
- (a) for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can safely be loaded;
  - (b) for indicating on the ship, by such mark as may be specified in the regulations, that such a lower tonnage has been assigned to it; and
  - (c) where the lower tonnage has been assigned to it as an alternative, for indicating on the ship the depth to which the ship may be loaded for the lower tonnage to be applicable.
- (4) Tonnage regulations may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the regulations by persons appointed by such organisations as may be authorised for the purpose by the Secretary of State.

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- (5) Tonnage regulations may provide for the issue, by the Secretary of State or by persons appointed by such organisations as may be authorised for the purpose by the Secretary of State, of certificates of the registered tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in the United Kingdom, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.
- (6) Regulations requiring the delivery up of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

## **20 Proceedings on forfeiture of ship.**

Section 7 applies in relation to ships or shares in ships which become liable to forfeiture under this Part as it applies in relation to ships or shares in ships which become liable to forfeiture under Part 1.

## **21 Disclosure of information relating to registration by other government departments.**

- (1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall preclude any of the persons mentioned in subsection (2) below from disclosing—
  - (a) to the Secretary of State, or
  - (b) to the registrar, or
  - (c) to an authorised officer of the Secretary of State,
 information for the purpose of assisting the Secretary of State in the performance of his functions under this Part.
- (2) The persons referred to in subsection (1) above are—
  - (a) the Minister of Agriculture, Fisheries and Food,
  - (b) the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland,
  - (c) the Department of Agriculture for Northern Ireland,
  - (d) the Commissioners of Customs and Excise, and
  - (e) an authorised officer of any of the persons falling within paragraphs (a) to (d) above.
- (3) Information obtained by any person in pursuance of subsection (1) above shall not be disclosed by him to any other person except where the disclosure is made—
  - (a) to a person to whom the information could have been disclosed by any of the persons mentioned in subsection (2) above in accordance with subsection (1) above, or
  - (b) for the purposes of any legal proceedings arising out of this Part.

## **22 Forgery of documents: Scotland.**

- (1) In Scotland, if any person forges or fraudulently alters—
  - (a) any entry or endorsement in the register; or

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- (b) subject to subsection (2) below, any other document as respects which provision is made by, under or by virtue of this Part (or any entry or endorsement in or on such other document and as respects which provision is so made),

he shall be liable—

- (i) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or  
(ii) on conviction on indictment, to a fine or to imprisonment or to both.

- (2) Subsection (1)(b) does not apply in respect of actings which constitute an offence under section 288(6) or 300(8).

## 23 Interpretation.

- (1) In this Part—

“British connection” and “declaration of British connection” have the meaning given in section 9(9);

“the private law provisions for registered ships” has the meaning given in section 16;

“the register” means the register of British ships maintained for the United Kingdom under section 8 and “registered” (except with reference to the law of another country) is to be construed accordingly; and

“the registrar” means the Registrar General of Shipping and Seamen in his capacity as registrar or, as respects functions of his being discharged by another authority or person, that authority or person.

- (2) Where, for the purposes of any enactment the question arises whether a ship is owned by persons qualified to own British ships, the question shall be determined by reference to registration regulations made under section 9(2)(a).

## PART III

### MASTERS AND SEAMEN

#### *Application of Part*

## 24 Application of this Part.

- (1) With the exceptions specified in subsection (2) below, this Part applies only to ships which are sea-going ships and masters and seamen employed in sea-going ships.

- (2) Those exceptions are sections 43, 46 to 52, 54, 55, 58, 61 to 68 and 69.

[<sup>F6</sup>(2A) Sections 25, 26, 30, 31, 33, 38(1), 44, 45, 55 and 73 to 75 apply to sea-going United Kingdom ships and masters and seamen employed in them only if they are—

- (a) fishing vessels;  
(b) ships of traditional build; or  
(c) vessels which are not ordinarily engaged in commercial activities.]

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- (3) This Part, in its application to fishing vessels and persons serving in them, has effect subject to the modifications made by Part V and in particular sections 110 and 112 apply to the exclusion of sections 30 and 31.

#### Textual Amendments

- F6** S. 24(2A) inserted (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Consequential and Minor Amendments\) Regulations 2014 \(S.I. 2014/1614\)](#), regs. 1, **2(2)** (with reg. 16)

### *Engagement and discharge of crews*

## **25 Crew agreements.**

- (1) Except as provided under subsection (5) below, an agreement in writing shall be made between each person employed as a seaman in a United Kingdom ship and the persons employing him and shall be signed both by him and by or on behalf of them.
- (2) The agreements made under this section with the several persons employed in a ship shall be contained in one document (in this Part referred to as a crew agreement) except that in such cases as the Secretary of State may approve—
- the agreements to be made under this section with the persons employed in a ship may be contained in more than one crew agreement; and
  - one crew agreement may relate to more than one ship.
- (3) The provisions and form of a crew agreement must be of a kind approved by the Secretary of State; and different provisions and forms may be so approved for different circumstances.
- (4) Subject to the following provisions of this section, a crew agreement shall be carried in the ship to which it relates whenever the ship goes to sea.
- (5) The Secretary of State may make regulations providing for exemptions from the requirements of this section—
- with respect to such descriptions of ship as may be specified in the regulations or with respect to voyages in such areas or such description of voyages as may be so specified; or
  - with respect to such descriptions of seamen as may be specified in the regulations;
- and the Secretary of State may grant other exemptions from those requirements (whether with respect to particular seamen or with respect to seamen employed by a specified person or in a specified ship or in the ships of a specified person) in cases where the Secretary of State is satisfied that the seamen to be employed otherwise than under a crew agreement will be adequately protected.
- (6) Where, but for an exemption granted by the Secretary of State, a crew agreement would be required to be carried in a ship or a crew agreement carried in the ship would be required to contain an agreement with a person employed in a ship, the ship shall carry such document evidencing the exemption as the Secretary of State may direct.



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- (7) Regulations under this section may enable ships required under this section to carry a crew agreement to comply with the requirement by carrying a copy thereof, certified in such manner as may be provided by the regulations.
- (8) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section the master or the person employing the crew shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and the ship, if in the United Kingdom, may be detained.

## **26 Regulations relating to crew agreements.**

- (1) The Secretary of State may make regulations—
  - (a) requiring such notice as may be specified in the regulations to be given to a superintendent or proper officer, except in such circumstances as may be so specified, before a crew agreement is made or an agreement with any person is added to those contained in a crew agreement;
  - (b) providing for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen of crew agreements and agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;
  - (c) requiring the posting in ships of copies of or extracts from crew agreements;
  - (d) requiring copies of or extracts from crew agreements to be supplied to members of the crew demanding them and requiring copies of or extracts from documents referred to in crew agreements to be made available, in such circumstances as may be specified in the regulations, for inspection by members of the crew; and
  - (e) requiring any documents carried in a ship in pursuance of section 25 to be produced on demand to an officer of customs and excise.
- (2) Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

## **27 Discharge of seamen.**

- (1) The Secretary of State may make regulations prescribing the procedure to be followed in connection with the discharge of seamen from United Kingdom ships.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
  - (a) requiring notice of such a discharge to be given at such time as may be specified in the regulations to the superintendent or proper officer at a place specified in or determined under the regulations;
  - (b) requiring such a discharge to be recorded, whether by entries in the crew agreement and discharge book or otherwise, and requiring copies of any such entry to be given to a superintendent or proper officer or the Registrar General of Shipping and Seamen.
- (3) Regulations under this section may provide that in such cases as may be specified in the regulations, or except in such cases as may be specified in or determined under the regulations, a seaman shall not be discharged outside the United Kingdom from a United Kingdom ship without the consent of the proper officer.

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- (4) Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

**28 Seamen left behind abroad otherwise than on discharge.**

Regulations made under section 27 may apply any provision thereof, with such modifications as appear to the Secretary of State to be appropriate, to cases where a seaman employed in a United Kingdom ship is left behind outside the United Kingdom otherwise than on being discharged from the ship.

**29 Discharge of seamen when ship ceases to be registered in United Kingdom.**

Where a United Kingdom ship ceases to be registered, any seaman employed in the ship shall be discharged from the ship unless he consents in writing to continue his employment in the ship; and sections 30 to 33 shall apply in relation to his wages as if the ship had remained a United Kingdom ship.

*Wages etc.*

**30 Payment of seamen's wages.**

- (1) Where a seaman employed under a crew agreement relating to a United Kingdom ship leaves the ship on being discharged from it, then, except as provided by or under this Part or any other enactment, the wages due to the seaman under the agreement shall either—
- (a) be paid to him in full at the time when he so leaves the ship (in this section and in section 31 referred to as the time of discharge), or
  - (b) be paid to him in accordance with subsections (4) and (5) below.
- (2) If the amount shown in the account delivered to a seaman under section 31(1) as being the amount payable to him under subsection (1)(a) above is replaced by an increased amount shown in a further account delivered to him under section 31(3), the balance shall be paid to him within seven days of the time of discharge; and if the amount so shown in the account delivered to him under section 31(1) exceeds £50 and it is not practicable to pay the whole of it at the time of discharge, not less than £50 nor less than one-quarter of the amount so shown shall be paid to him at that time and the balance within seven days of that time.
- (3) If any amount which, under subsection (1)(a) or (2) above, is payable to a seaman is not paid at the time at which it is so payable the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of 56 days following the time of discharge; and if any such amount or any amount payable by virtue of this subsection remains unpaid after the end of that period it shall carry interest at the rate of 20 per cent. per annum.
- (4) Where the crew agreement referred to in subsection (1) above provides for the seaman's basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall (subject to subsection (5) below) be paid to him not later than the date

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on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.

- (5) If it is not practicable, in the case of any amount due to the seaman by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (4) above, that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement had continued.
- (6) If any amount which, under subsection (4) or (5) above, is payable to a seaman is not paid at the time at which it is so payable, it shall carry interest at the rate of 20 per cent. per annum.
- (7) The provisions of subsection (3) or (6) above shall not apply if the failure to pay was due to—
- (a) a mistake,
  - (b) a reasonable dispute as to liability,
  - (c) the act or default of the seaman, or
  - (d) any other cause, not being the wrongful act or default of the persons liable to pay his wages or of their servants or agents;
- and so much of those provisions as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.
- (8) Where a seaman is employed under a crew agreement relating to more than one ship the preceding provisions of this section shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.
- (9) Where a seaman, in pursuance of section 29, is discharged from a ship outside the United Kingdom but returns to the United Kingdom under arrangements made by the persons who employed him, the preceding provisions of this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections (1) to (4) above to the time of discharge there were substituted references to the time of his return to the United Kingdom, and subsection (8) above were omitted.
- (10) For the purposes of this section any amount of wages shall, if not paid to him in cash, be taken to have been paid to a seaman—
- (a) on the date when a cheque, or a money or postal order issued by [F7 a Post Office company (as defined by section 6 of the Postal Services Act 2011), for that amount was despatched by a recorded delivery service] to the seaman's last known address, or
  - (b) on the date when any account kept by the seaman with a bank or other institution was credited with that amount.

#### Textual Amendments

- F7** Words in s. 30(10) substituted (23.4.2012) by [Postal Services Act 2011 \(c. 5\), s. 93\(2\)\(3\), Sch. 12 para. 147](#); S.I. 2012/1095, art. 3(1) (with art. 6)

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

- C3** S. 30(10) modified (temp.) (15.9.2011) by [The Postal Services Act 2011 \(Commencement No. 1 and Transitional Provisions\) Order 2011 \(S.I. 2011/2329\), art. 5](#)

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### **31 Account of seaman’s wages.**

- (1) Subject to subsections (4) and (5) below and to regulations made under section 32 or 73, the master of every United Kingdom ship shall deliver to every seaman employed in the ship under a crew agreement an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.
- (2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than 24 hours before the time of discharge or, if the seaman is discharged without notice or at less than 24 hours’ notice, at the time of discharge.
- (3) If the amounts stated in the account require adjustment the persons who employed the seaman shall deliver to him a further account stating the adjusted amounts; and that account shall be delivered not later than the time at which the balance of his wages is payable to the seaman.
- (4) Where section 30(4) or (5) applies to the payment of any amount of wages due to a seaman under a crew agreement—
  - (a) the persons who employed the seaman shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and
  - (b) any such account shall be so delivered at the time when the wages are paid to him; and
  - (c) subsections (1) to (3) above shall not apply;
 and section 30(10) shall apply for the purposes of this subsection as it applies for the purposes of that section.
- (5) Where a seaman is employed under a crew agreement relating to more than one ship any account which under the preceding provisions of this section would be required to be delivered to him by the master shall instead be delivered to him by the persons employing him and shall be so delivered on or before the termination of his employment under the crew agreement.
- (6) If a person fails without reasonable excuse to comply with the preceding provisions of this section he shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

### **32 Regulations relating to wages and accounts.**

The Secretary of State may make regulations—

- (a) authorising deductions to be made from the wages due to a seaman under a crew agreement [<sup>F8</sup>or such other type of agreement as may be specified in the regulations] (in addition to any authorised by any provision of this Part or of any other enactment for the time being in force) in cases where a breach of his obligations under the agreement is alleged against him and such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;
- (b) regulating the manner in which any amounts deducted under the regulations are to be dealt with;
- (c) prescribing the manner in which wages due to a seaman under [<sup>F9</sup>the agreement] are to be or may be paid;

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- (d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his ship in the United Kingdom otherwise than on being discharged therefrom;
- (e) prescribing the form and manner in which any account required to be delivered by section 31 is to be prepared and the particulars to be contained therein (which may include estimated amounts).

#### Textual Amendments

- F8** Words in s. 32(a) inserted (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Consequential and Minor Amendments) Regulations 2014 (S.I. 2014/1614), regs. 1, 2(3)(a)
- F9** Words in s. 32(c) substituted (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Consequential and Minor Amendments) Regulations 2014 (S.I. 2014/1614), regs. 1, 2(3)(b)

### 33 Power of superintendent or proper officer to decide disputes about wages.

- (1) Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by the parties to a superintendent or proper officer for decision; but the superintendent or proper officer shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.
- (2) The decision of a superintendent or proper officer on a dispute submitted to him under this section shall be final.

### 34 Restriction on assignment of and charge upon wages.

- (1) As respects the wages due or accruing to a seaman employed in a United Kingdom ship—
  - (a) the wages shall not be subject to attachment;
  - (b) the wages shall not, in Scotland, be subject to any diligence other than those provided for in section 46(1) of the <sup>M2</sup>Debtors (Scotland) Act 1987;
  - (c) an assignment thereof before they have accrued shall not bind the seaman and the payment of the wages to the seaman shall be valid notwithstanding any previous assignment or charge; and
  - (d) a power of attorney or authority for the receipt of the wages shall not be irrevocable.
- (2) Nothing in this section shall affect the provisions of this Part with respect to allotment notes.
- (3) Nothing in this section applies to any disposition relating to the application of wages—
  - (a) in the payment of contributions to a fund declared by regulations made by the Secretary of State to be a fund to which this section applies; or
  - (b) in the payment of contributions in respect of the membership of a body declared by regulations made by the Secretary of State to be a body to which this section applies;or to anything done or to be done for giving effect to such a disposition.

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- (4) Subsection (1)(a) above is subject, in relation to England and Wales, to the <sup>M3</sup>Attachment of Earnings Act 1971.
- (5) Subsection (1)(a) above is subject to any provision made by or under—
- (a) section 31 or 33 of the <sup>M4</sup>Child Support Act 1991 (deductions from earnings orders); or
  - (b) Article 31 or 32 of the <sup>M5</sup>Child Support (Northern Ireland) Order 1991 (deductions from earnings orders).

#### Marginal Citations

- M2** 1987 c. 18.  
**M3** 1971 c. 32.  
**M4** 1991 c. 48.  
**M5** S.I. 1991/2628 (NI 23).

### 35 Power of court to award interest on wages due otherwise than under crew agreement.

In any proceedings by the master of a ship or a person employed in a ship otherwise than under a crew agreement [<sup>F10</sup>or an agreement specified in regulations under section 32(a)] for the recovery of any sum due to him as wages the court, unless it appears to it that the delay in paying the sum was due to—

- (a) a mistake,
- (b) a reasonable dispute as to liability,
- (c) the act or default of the person claiming the amount, or
- (d) any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants or agents,

may order them to pay, in addition to the sum due, interest on it at the rate of 20 per cent. per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

#### Textual Amendments

- F10** Words in s. 35 inserted (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Consequential and Minor Amendments\) Regulations 2014 \(S.I. 2014/1614\)](#), regs. 1, **2(4)**

### 36 Allotment notes.

- (1) Subject to the following provisions of this section, a seaman may, by means of an allotment note issued in accordance with regulations made by the Secretary of State, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a United Kingdom ship or ships.
- (2) A seaman's right to make an allotment under this section shall be subject to such limitations as may, by virtue of the following provisions of this section, be imposed by regulations made by the Secretary of State.
- (3) Regulations made by the Secretary of State for the purposes of this section may prescribe the form of allotment notes and—

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- (a) may limit the circumstances in which allotments may be made;
  - (b) may limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom it may be allotted and may prescribe the method by which that part is to be calculated;
  - (c) may limit the persons to whom allotments may be made by a seaman to persons of such descriptions or persons standing to him in such relationships as may be prescribed by the regulations;
  - (d) may prescribe the times and the intervals at which payments under allotment notes are to be made.
- (4) Regulations under this section may make different provision in relation to different descriptions of seamen and different circumstances.

**37 Right of person named in allotment to sue in own name.**

- (1) A person to whom any part of a seaman's wages has been allotted by an allotment note issued in accordance with regulations made under section 36 shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seaman has for the recovery of his wages.
- (2) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seaman's wages has been allotted it shall be presumed, unless the contrary is shown, that the seaman is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

**38 Right, or loss of right, to wages in certain circumstances.**

- (1) Where a United Kingdom ship is wrecked or lost a seaman whose employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the two months following that date.
- (2) Where a United Kingdom ship is sold while outside the United Kingdom or ceases to be a United Kingdom ship and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the two months following that date.
- (3) A seaman shall not be entitled to wages by virtue of subsection (1) or (2) above for a day on which he was unemployed, if it is shown—
  - (a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be a United Kingdom ship; or
  - (b) that the seaman was able to obtain suitable employment for that day but unreasonably refused or failed to take it.
- (4) This section shall apply to a master as it does to a seaman.

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### **39 Protection of certain rights and remedies.**

- (1) A seaman's lien, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of his ship, and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.
- (2) Subsection (1) above does not affect such of the terms of any agreement made with the seamen belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to them for salvage services rendered by that ship.

### **40 Claims against seaman's wages for maintenance, etc. of dependants.**

- (1) Where, during a seaman's employment in a ship, expenses are incurred by a responsible authority for the benefit of any dependant of his and the expenses are of a kind specified in regulations under this section and such further conditions, if any, as may be so specified are satisfied, the authority may by notice in writing complying with the regulations require the persons employing the seaman—
  - (a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and
  - (b) to give to the responsible authority as soon as may be notice in writing of the seaman's discharge from the ship;and the persons employing the seaman shall comply with the notice (subject to subsection (3) below) and give notice in writing of its contents to the seaman.
- (2) For the purposes of this section—
  - (a) the following persons, and no others, shall be taken to be a seaman's dependants, that is to say, his spouse and any person under the age of 19 whom he is liable, for the purposes of any enactment in any part of the United Kingdom, to maintain or in respect of whom he is liable under any such enactment to make contributions to a local authority; and
  - (b) expenses incurred for the benefit of any person include (in addition to any payments made to him or on his behalf) expenses incurred for providing him with accommodation or care or for exercising supervision over him;but no expenses shall be specified in regulations under this section unless they are such that a magistrates' court has power under any enactment in force in any part of the United Kingdom to order the making of payments in respect thereof.
- (3) Not more than the following proportion of a seaman's net wages shall be retained under subsection (1) above (whether in pursuance of one or more notices)—
  - (a) one-half if the notice or notices relate to one dependant only;
  - (b) two-thirds if the notice or notices relate to two or more dependants.
- (4) Where a responsible authority have served a notice under this section on the persons employing a seaman a magistrates' court may, on the application of the authority, make an order for the payment to the authority of such sum, not exceeding the proportion of the seaman's wages which those persons were required by virtue of this section to retain, as the court, having regard to the expenses incurred by the authority and the seaman's means, thinks fit.
- (5) Any sums paid out of a seaman's wages in pursuance of an order under this section shall be deemed to be paid to him in respect of his wages; and the service, on the persons who employed the seaman, of such an order or of an order dismissing an



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application for such an order shall terminate the period for which they were required to retain the wages.

- (6) An application for an order under this section for the payment of any sum by the persons who employed a seaman shall be deemed, for the purposes of any proceedings, to be an application for an order against the seaman; but the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.
- (7) Parts I and III of the <sup>M6</sup>Maintenance Orders Act 1950 shall have effect as if an order under this section were included among those referred to in sections 4(1) and (2), 9(1) and (2), and 12(1) and (2) of that Act; and any sum payable by any persons under an order made under this section in any part of the United Kingdom may, in any other part of the United Kingdom, be recovered from them as a debt due to the authority on whose application the order was made.
- (8) Any notice or order under this section may be served by registered post or recorded delivery service.
- (9) The Secretary of State may make regulations specifying—
- (a) the expenses in respect of which a notice may be served by a responsible authority under subsection (1) above;
  - (b) any conditions that must be satisfied if such a notice is to be served;
  - (c) the period that may be specified in such a notice (being a period beginning with the service of the notice and ending a specified number of days after the seaman's discharge from his ship);
  - (d) the form of such a notice and the information to be contained therein; and
  - (e) the amounts to be deducted from a seaman's wages in computing his net wages for the purposes of this section;
- and the amounts specified under paragraph (e) above may include amounts allotted by allotment notes issued under section 36.
- (10) In this section “responsible authority” means the Secretary of State, the Department of Health and Social Services for Northern Ireland, a Health and Social Services Board acting on behalf of that Department, or (except in Northern Ireland) any local authority.
- (11) In the application of subsection (2)(a) above to Northern Ireland, for the reference to a local authority there shall be substituted a reference to a Health and Social Services Board and in subsection (10) above and this subsection “Health and Social Services Board” means such a Board established under the <sup>M7</sup>Health and Personal Social Services (Northern Ireland) Order 1972.
- (12) In this section “magistrates' court”—
- (a) in relation to Scotland, means the sheriff court, and
  - (b) in relation to Northern Ireland, means a court of summary jurisdiction.

#### Marginal Citations

**M6** 1950 c. 37.

**M7** S.I. 1972/1265 (NI 14).

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#### **41 Remedies of master for remuneration, disbursements and liabilities.**

The master of a ship shall have the same lien for his remuneration, and all disbursements or liabilities properly made or incurred by him on account of the ship, as a seaman has for his wages.

*Safety, health and welfare*

#### **42 Obligation of shipowners as to seaworthiness.**

- (1) In every contract of employment between the owner of a United Kingdom ship and the master of or any seaman employed in the ship there shall be implied an obligation on the owner of the ship that—
- (a) the owner of the ship,
  - (b) the master of the ship, and
  - (c) every agent charged with—
    - (i) the loading of the ship,
    - (ii) the preparing of the ship for sea, or
    - (iii) the sending of the ship to sea,
- shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition for the voyage during the voyage.
- (2) The obligation imposed by subsection (1) above applies notwithstanding any agreement to the contrary.
- (3) No liability on the owner of a ship arises under subsection (1) above in respect of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

#### **43 Crew accommodation.**

- (1) The Secretary of State may make regulations with respect to the crew accommodation to be provided in United Kingdom ships.
- (2) Without prejudice to the generality of subsection (1) above, regulations made under this section may, in particular—
- (a) prescribe the minimum space per man which must be provided by way of sleeping accommodation for seamen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
  - (b) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
  - (c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorise the surveyor to inspect any such works; and
  - (d) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed.

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- (3) Regulations under this section may make different provision with respect to different descriptions of ship or with respect to ships which were registered in the United Kingdom at different dates or the construction of which was begun at different dates and with respect to crew accommodation provided for seamen of different descriptions.
- (4) Regulations under this section may exempt ships of any description from any requirements of the regulations and the Secretary of State may grant other exemptions from any such requirement with respect to any ship.
- (5) Regulations under this section may require the master of a ship or any officer authorised by him for the purpose to carry out such inspections of the crew accommodation as may be prescribed by the regulations.
- (6) If the provisions of any regulations under this section are contravened in the case of a ship the owner or master shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and the ship, if in the United Kingdom, may be detained.
- (7) In this section “crew accommodation” includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen but does not include any accommodation which is also used by or provided for the use of passengers.

#### **44 Complaints about provisions or water.**

- (1) If three or more seamen employed in a United Kingdom ship consider that the provisions or water provided for the seamen employed in that ship are not in accordance with safety regulations containing requirements as to the provisions and water to be provided on ships (whether because of bad quality, unfitness for use or deficiency in quantity) they may complain to the master, who shall investigate the complaint.
- (2) If the seamen are dissatisfied with the action taken by the master as a result of his investigation or by his failure to take any action they may state their dissatisfaction to him and may claim to complain to a superintendent or proper officer; and thereupon the master shall make adequate arrangements to enable the seamen to do so as soon as the service of the ship permits.
- (3) The superintendent or proper officer to whom a complaint has been made under this section shall investigate the complaint and may examine the provisions or water or cause them to be examined.
- (4) If the master fails without reasonable excuse to comply with the provisions of subsection (2) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and if he has been notified in writing by the person making an examination under subsection (3) above that any provisions or water are found to be unfit for use or not of the quality required by the regulations, then—
  - (a) if they are not replaced within a reasonable time the master or owner shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale unless he proves that the failure to replace them was not due to his neglect or default; or

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- (b) if the master, without reasonable excuse, permits them to be used he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **45 Expenses of medical and other treatment during voyage.**

- (1) If a person, while employed in a United Kingdom ship, receives outside the United Kingdom any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons employing him.
- (2) If a person dies while employed in a United Kingdom ship and is buried or cremated outside the United Kingdom, the expenses of his burial or cremation shall also be borne by those persons.
- (3) The reference in subsection (2) above to dying in a ship includes a reference to dying in a ship's boat.

#### *Manning, qualifications, training and uniform*

#### **46 Application of sections 47 to 51.**

Sections 47 to 51 apply to every United Kingdom ship and also to any ship registered under the law of a country outside the United Kingdom which carries passengers—

- (a) between places in the United Kingdom or between the United Kingdom and the Isle of Man or any of the Channel Islands; or
- (b) on a voyage which begins and ends at the same place in the United Kingdom and on which the ship calls at no place outside the United Kingdom.

#### **47 Manning.**

- (1) Subject to subsection (2) below, the Secretary of State may make regulations—
  - (a) requiring ships to which this section applies to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any description as may be specified in the regulations; and
  - (b) prescribing or enabling the Secretary of State to specify standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seamen of any description in order to be qualified for the purposes of this section.
- (2) The Secretary of State shall not exercise his power to make regulations requiring ships to carry seamen other than doctors and cooks except to the extent that it appears to him necessary or expedient in the interests of safety.
- (3) Regulations under this section may make different provision for different descriptions of ship or for ships of the same description in different circumstances.
- (4) Without prejudice to the generality of subsection (1)(b) above, the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provision, or enable the Secretary of State to make provision, for—

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- (a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
  - (b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners; and
  - (c) the issue, form and recording of certificates and other documents;
- and different provisions may be so made or enabled to be made for different circumstances.

[<sup>F11</sup>(4A) Standards of competence or other conditions prescribed or specified by the Secretary of State under subsection (1)(b) may be expressed by reference to other documents.

(4B) A reference to a document in reliance on subsection (4A) may include a reference to amendments of the document which are—

- (a) made after the conditions are prescribed or specified, and
- (b) approved for the purposes of the regulations by the Secretary of State.]

(5) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a certificate or other document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

**F11** S. 47(4A)(4B) inserted (26.6.2013) by [Marine Navigation Act 2013 \(c. 23\)](#), **ss. 10, 13**; S.I. 2013/1489, art. 2

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

**C4** Ss. 47-50 extended (in so far as not already extended) (1.1.2007) by [The Merchant Shipping \(Inland Waterway and Limited Coastal Operations\) \(Boatmasters' Qualifications and Hours of Work\) Regulations 2006 \(S.I. 2006/3223\)](#), regs. 1(b), **4(1)(a)**

### 48 Power to exempt from manning requirements.

- (1) The Secretary of State may exempt any ship or description of ship from any requirements of regulations made under section 47.
- (2) An exemption given under this section may be confined to a particular period or to one or more particular voyages.

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

**C4** Ss. 47-50 extended (in so far as not already extended) (1.1.2007) by [The Merchant Shipping \(Inland Waterway and Limited Coastal Operations\) \(Boatmasters' Qualifications and Hours of Work\) Regulations 2006 \(S.I. 2006/3223\)](#), regs. 1(b), **4(1)(a)**

### 49 Prohibition of going to sea undermanned.

- (1) Subject to section 48, if a ship to which this section applies goes to sea or attempts to go to sea without carrying such officers and other seamen as it is required to carry under section 47, the owner or master shall be liable—

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- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine;
- and the ship, if in the United Kingdom, may be detained.

- (2) This section shall, in its application to ships which are not sea-going ships, have effect as if for the words “goes to sea or attempts to go to sea” there were substituted the words “goes on a voyage or excursion or attempts to do so” and the words “if in the United Kingdom” were omitted.

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

- C4** Ss. 47-50 extended (in so far as not already extended) (1.1.2007) by [The Merchant Shipping \(Inland Waterway and Limited Coastal Operations\) \(Boatmasters’ Qualifications and Hours of Work\) Regulations 2006 \(S.I. 2006/3223\)](#), regs. 1(b), **4(1)(a)**
- C5** S. 49 modified (1.1.2007) by [The Merchant Shipping \(Inland Waterway and Limited Coastal Operations\) \(Boatmasters’ Qualifications and Hours of Work\) Regulations 2006 \(S.I. 2006/3223\)](#), regs. 1(b), **24(3)**

**50 Production of certificates and other documents of qualification.**

- (1) Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that he is qualified for the purposes of section 47 shall on demand produce it to any superintendent, surveyor of ships or proper officer and (if he is not himself the master) to the master of the ship.
- (2) If, without reasonable excuse, a person fails to comply with subsection (1) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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

- C4** Ss. 47-50 extended (in so far as not already extended) (1.1.2007) by [The Merchant Shipping \(Inland Waterway and Limited Coastal Operations\) \(Boatmasters’ Qualifications and Hours of Work\) Regulations 2006 \(S.I. 2006/3223\)](#), regs. 1(b), **4(1)(a)**

**51 Crew’s knowledge of English.**

- (1) Where in the opinion of a superintendent or proper officer the crew of a ship to which this section applies consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, then—
- (a) if the superintendent or proper officer has informed the master of that opinion, the ship shall not go to sea; and
  - (b) if the ship is in the United Kingdom, it may be detained.
- (2) If a ship goes to sea or attempts to go to sea in contravention of this section the owner or master shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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## 52 Unqualified persons going to sea as qualified officers or seamen.

- (1) If a person goes to sea as a qualified officer or seaman of any description without being such a qualified officer or seaman he shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine.
- (2) In this section “qualified” means qualified for the purposes of section 47.

### Modifications etc. (not altering text)

- C6** S. 52 extended (in so far as not already extended) (1.1.2007) by [The Merchant Shipping \(Inland Waterway and Limited Coastal Operations\) \(Boatmasters’ Qualifications and Hours of Work\) Regulations 2006 \(S.I. 2006/3223\)](#), regs. 1(b), **4(1)(a)**
- C7** S. 52 modified (1.1.2007) by [The Merchant Shipping \(Inland Waterway and Limited Coastal Operations\) \(Boatmasters’ Qualifications and Hours of Work\) Regulations 2006 \(S.I. 2006/3223\)](#), regs. 1(b), **24(3)**

## 53 Medical treatment on board ship.

Where a United Kingdom ship does not carry a [<sup>F12</sup>registered medical practitioner] among the seamen employed in it the master shall make arrangements for securing that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for the purpose.

### Textual Amendments

- F12** Words in s. 53 substituted (16.11.2009 as notified in the Gazettes) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), art. 1(2)(3), **Sch. 1 para. 12** (with Sch. 2)

## 54 Special certificates of competence.

- (1) The Secretary of State may issue and record documents certifying the attainment of any standard of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under section 47(1)(b); and may, in relation thereto, make regulations for purposes corresponding to those mentioned in section 47(4).
- (2) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## 55 Young persons.

- (1) [<sup>F13</sup>Subject to subsection (1A),] a person under school-leaving age shall not be employed in any United Kingdom ship except as permitted by regulations under this section.

[<sup>F14</sup>(1A) A person under 16 years of age shall not be employed in any sea-going United Kingdom ship.]

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- (2) The Secretary of State may make regulations—
- (a) prescribing circumstances in which and conditions subject to which persons under school-leaving age who have attained such age as may be specified in the regulations may be employed in a ship [<sup>F15</sup>which is not a sea-going United Kingdom ship] in such capacities as may be so specified;
  - (b) prescribing circumstances and capacities in which persons over school leaving-age but under the age of 18 or under such lower age as may be specified in the regulations must not be employed in a United Kingdom ship [<sup>F16</sup>which is not a sea-going ship] or may be so employed only subject to such conditions as may be specified in the regulations.
  - [<sup>F17</sup>(c) prescribing circumstances and capacities in which persons of at least the age of 16 but under the age of 18 or under such lower age as may be specified in the regulations must not be employed in a sea-going United Kingdom ship or may be so employed only subject to such conditions as may be specified in the regulations.]
- (3) Regulations made for the purposes of this section may make different provision for different employments and different descriptions of ship and any other different circumstances.
- (4) If any person is employed in a ship in contravention of this section or if any condition subject to which a person may be employed under regulations made for the purposes of this section is not complied with, the owner or master shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section a person employed in a ship shall be deemed to be over school-leaving age if he has, and under school-leaving age if he has not, attained the age which is the upper limit of compulsory school age (in Scotland school age) under the enactments relating to education in the part of the United Kingdom in which he entered into the agreement under which he is so employed or, if he entered into that agreement outside the United Kingdom or is employed otherwise than under an agreement, under the enactments relating to education in England and Wales; and if he is treated for the purposes of those enactments as not having attained that age he shall be so treated also for the purposes of this section.

#### Textual Amendments

**F13** Words in s. 55(1) inserted (7.9.2002) by S.I. 2002/2125, reg. 21, **Sch. 2 para. 1(a)**

**F14** S. 55(1A) inserted (7.9.2002) by S.I. 2002/2125, reg. 21, **Sch. 2 para. 1(b)**

**F15** Words in s. 55(2)(a) inserted (7.9.2002) by S.I. 2002/2125, reg. 21, **Sch. 2 para. 1(c)(i)**

**F16** Words in s. 55(2)(b) inserted (7.9.2002) by S.I. 2002/2125, reg. 21, **Sch. 2 para. 1(c)(ii)**

**F17** S. 55(2)(c) inserted (7.9.2002) by S.I. 2002/2125, reg. 21, **Sch. 2 para. 1(c)(iii)**

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

**C8** S. 55(1) excluded (1.10.1998) by 1998 c. 31, s. 112(2) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), **Sch. 1 Pt. I**

## 56 Financial assistance for training.

- (1) The Secretary of State may, with the consent of the Treasury, give any person or body of persons of any description determined by him for the purposes of this section financial assistance in respect of expenses incurred or to be incurred by any such



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person or body in connection with the training (whether in the United Kingdom or elsewhere) of officers and ratings for service in merchant ships, including expenses incurred or to be incurred by any such person in connection with his undergoing any such training.

- (2) Assistance under this section may be given by way of a grant or a loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit, including conditions requiring a grant to be repaid in specified circumstances.
- (3) This section is without prejudice to any other power of the Secretary of State to give financial assistance in connection with any such training as is mentioned in subsection (1) above.
- [<sup>F18</sup>(4) In providing assistance in accordance with this section the Secretary of State shall have regard to the maintenance and development of the United Kingdom's merchant fleet and marine related business and for that purpose shall—
  - (a) keep under review all aspects of that fleet and business; and
  - (b) seek the advice of those who appear to him to have experience of that fleet or business.
- <sup>F18</sup>(5) In this section, “marine related business” means any trade, business or other activity concerned with the manufacture of, or the provision of goods and services for, or the operation or use of, ships and includes maritime educational establishments, marine classification societies, marine equipment suppliers, marine surveyors, marine and naval architects, marine insurance companies, protection and indemnity clubs, providers of maritime financial or legal services, the operators of ports and harbours and shipbrokers.]

#### Textual Amendments

**F18** S. 56(4)(5) inserted (17.7.1997) by 1997 c. 28, s. 17; S.I. 1997/1539, art. 2, Sch.

## 57 Uniform.

- (1) Subject to subsection (3) below, if any person, not being entitled to wear the merchant navy uniform, wears that uniform or any part thereof, or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable, on summary conviction,—
  - (a) except in a case falling within paragraph (b) below, to a fine not exceeding level 1 on the standard scale;
  - (b) if he wears it in such a manner or under such circumstances as to be likely to bring contempt on the uniform, to a fine not exceeding level 1 on the standard scale or to imprisonment for a term not exceeding one month.
- (3) Subsection (1) above shall not prevent any person from wearing any uniform or dress in the course or for the purposes of a stage play or representation, or a music-hall or circus performance if the uniform is not worn in such a manner or under such circumstances as to bring it into contempt.

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- (4) If any person entitled to wear the merchant navy uniform when aboard a ship in port or on shore appears dressed partly in uniform and partly not in uniform under such circumstances as to be likely to bring contempt on the uniform, or, being entitled to wear the uniform appropriate to a particular rank or position, wears the uniform appropriate to some higher rank or position, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

*Offences by seamen, etc*

**58 Conduct endangering ships, structures or individuals.**

- (1) This section applies—
- (a) to the master of, or any seaman employed in, a United Kingdom ship; and
  - (b) to the master of, or any seaman employed in, a ship which—
    - (i) is registered under the law of any country outside the United Kingdom; and
    - (ii) is in a port in the United Kingdom or within United Kingdom waters while proceeding to or from any such port.
- (2) If a person to whom this section applies, while on board his ship or in its immediate vicinity—
- (a) does any act which causes or is likely to cause—
    - (i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or
    - (ii) the loss or destruction of or serious damage to any other ship or any structure, or
    - (iii) the death of or serious injury to any person, or
  - (b) omits to do anything required—
    - (i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or
    - (ii) to preserve any person on board his ship from death or serious injury, or
    - (iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,

and either of the conditions specified in subsection (3) below is satisfied with respect to that act or omission, he shall (subject to subsections (6) and (7) below) be guilty of an offence.
- (3) Those conditions are—
- (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
  - (b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.
- (4) If a person to whom this section applies—
- (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a) above, or

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- (b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things, he shall (subject to subsections (6) and (7) below) be guilty of an offence.
- (5) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (6) In proceedings for an offence under this section it shall be a defence to prove—
- (a) in the case of an offence under subsection (2) above where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;
  - (b) in the case of an offence under subsection (2) above, that at the time of the act or omission alleged against the accused he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had;
  - (c) in the case of an offence under subsection (4) above, that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
  - (d) in the case of an offence under either of those subsections—
    - (i) that he could have avoided committing the offence only by disobeying a lawful command, or
    - (ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him.
- (7) In the application of this section to any person falling within subsection (1)(b) above, subsections (2) and (4) above shall have effect as if subsection (2)(a)(i) and (b)(i) above were omitted; and no proceedings for any offence under this section shall be instituted against any such person—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (8) In this section—
- “breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;
- “duty”—
- (a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and
  - (b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and
- “structure” means any fixed or movable structure (of whatever description) other than a ship.

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## 59 Concerted disobedience and neglect of duty.

- (1) If a seaman employed in a United Kingdom ship combines with other seamen employed in that ship—
- (a) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;
  - (b) to neglect any duty which is required to be discharged at such a time; or
  - (c) to impede, at such a time, the progress of a voyage or the navigation of the ship,
- he shall be liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) For the purposes of this section a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.

### *Disciplinary offences*

PROSPECTIVE

## 60 Breaches by seamen of codes of conduct.

- (1) The Secretary of State may make regulations under the following provisions of this section for the purpose of maintaining discipline on board United Kingdom ships; and in this section “disciplinary body” means a body established or approved by the Secretary of State under subsection (6) below.
- (2) Regulations may provide for the hearing on shore in the United Kingdom, by a disciplinary body, of a complaint by the master or owner of a United Kingdom ship, other than a fishing vessel, against a seaman alleging that during his employment on board the ship the seaman contravened a provision of a code of conduct approved by the Secretary of State for the purposes of this section.

The alleged contravention may be one on or off the ship and in the United Kingdom or elsewhere.

- (3) Regulations may enable a disciplinary body—
- (a) to dismiss the complaint if it finds the allegation not proved;
  - (b) if it finds the allegation proved—
    - (i) to warn the seaman;
    - (ii) to reprimand the seaman; or
    - (iii) 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 80 and shall be required to surrender any such book which has been issued to him.
- (4) Regulations may—
- (a) enable the seaman to appeal against such a recommendation to another disciplinary body (an “appellate body”);
  - (b) enable an appellate body—

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- (i) to confirm the recommendation;
  - (ii) to cancel the recommendation; or
  - (iii) 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.
- (5) Regulations may make provision for securing that a recommendation 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 an appellate body.
- (6) Regulations may make provision 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 such body.
- (7) Regulations may make provision 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 Treasury, determine to any member of such a body.
- (8) Regulations may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Secretary of State considers appropriate.
- (9) Without prejudice to the generality of the preceding provisions, regulations may include provision for any proceedings to take place notwithstanding the absence of the seaman to whom they relate.
- (10) Nothing in the regulations or done in pursuance of the regulations 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.

#### Commencement Information

**I2** S. 60 not in force at Royal Assent see s. 314, Sch. 14 para. 5

### *Disqualification of seamen and inquiries*

#### **61 Inquiry into fitness or conduct of officer.**

- (1) If it appears to the Secretary of State that an officer—
- (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or
  - (b) has been seriously negligent in the discharge of his duties; or
  - (c) has failed to comply with the provisions of section 92;
- the Secretary of State may cause an inquiry to be held by one or more persons appointed by him and, if he does so, may, if he thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 47 and require the officer to deliver it to him.

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- (2) Where a certificate issued to an officer has been suspended under subsection (1) above the suspension may, on the application of the officer, be terminated by the High Court or, if the inquiry is held in Scotland, by the Court of Session, and the decision of the court on such an application shall be final.
- (3) An inquiry under this section shall be conducted in accordance with rules made under section 65(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.
- (4) The persons holding an inquiry under this section into the fitness or conduct of an officer—
  - (a) may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (1) above, cancel or suspend any certificate issued to him under section 47 or censure him;
  - (b) may make such order with regard to the costs (or in Scotland expenses) of the inquiry as they think just; and
  - (c) shall make a report on the case to the Secretary of State;
 and if the certificate is cancelled or suspended the officer (unless he has delivered it to the Secretary of State in pursuance of subsection (1) above) shall deliver it forthwith to the persons holding the inquiry or to the Secretary of State.
- (5) Any costs (or in Scotland expenses) which a person is ordered to pay under subsection (4)(b) above may be recovered from him by the Secretary of State.

## **62 Disqualification of holder of certificate other than officer's.**

- (1) Where it appears to the Secretary of State that a person who is the holder of a certificate to which this section applies is unfit to be the holder of such a certificate, whether by reason of incompetence or misconduct or for any other reason, the Secretary of State may give him notice in writing that he is considering the suspension or cancellation of the certificate.
- (2) The notice must state the reasons why it appears to the Secretary of State that that person is unfit to be the holder of such a certificate and must state that within a period specified in the notice, or such longer period as the Secretary of State may allow, he may make written representations to the Secretary of State or claim to make oral representations to the Secretary of State.
- (3) After considering any representations made in pursuance of subsection (2) above the Secretary of State shall decide whether or not to suspend or cancel the certificate and shall give the holder of it written notice of his decision.
- (4) Where the decision is to suspend or cancel the certificate the notice shall state the date from which the cancellation is to take effect, or the date from which and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Secretary of State not later than the date so specified unless before that date the holder has required the case to be dealt with by an inquiry under section 63.
- (5) Where, before the date specified in the notice, he requires the case to be dealt with by such an inquiry, then, unless he withdraws the requirement, the suspension or cancellation shall not take effect except as ordered in pursuance of the inquiry.
- (6) The Secretary of State may make regulations prescribing the procedure to be followed with respect to the making and consideration of representations in pursuance of this

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section, the form of any notice to be given under this section and the period to be specified in any such notice as the period within which any steps are to be taken.

- (7) This section applies to every certificate issued under section 54 and to any certificate issued under section 47 other than one certifying that a person is qualified as an officer.

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

- C9** Ss. 62-69 applied (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **38(3)**

**63 Inquiry into fitness or conduct of seaman other than officer.**

- (1) Where a person has, before the date mentioned in section 62(4), required his case to be dealt with by an inquiry under this section the Secretary of State shall cause an inquiry to be held by one or more persons appointed by him.
- (2) An inquiry under this section shall be conducted in accordance with rules made under section 65(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.
- (3) The persons holding an inquiry under this section—
- (a) may confirm the decision of the Secretary of State and cancel or suspend the certificate accordingly;
  - (b) may, where the decision was to cancel the certificate, suspend it instead;
  - (c) may, where the decision was to suspend the certificate, suspend it for a different period;
  - (d) may, instead of confirming the decision of the Secretary of State, censure the holder of the certificate or take no further action;
  - (e) may make such order with regard to the costs of the inquiry as they think just; and
  - (f) shall make a report on the case to the Secretary of State;
- and if the certificate is cancelled or suspended it shall be delivered forthwith to the persons holding the inquiry or to the Secretary of State.
- (4) Any costs (or in Scotland expenses) which a person is ordered to pay under subsection (3)(e) above may be recovered from him by the Secretary of State.

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

- C9** Ss. 62-69 applied (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **38(3)**

**64 Re-hearing of and appeal from inquiries.**

- (1) Where an inquiry has been held under section 61 or 63 the Secretary of State may order the whole or part of the case to be reheard, and shall do so—
- (a) if new and important evidence which could not be produced at the inquiry has been discovered; or
  - (b) if there appear to the Secretary of State to be other grounds for suspecting that a miscarriage of justice may have occurred.

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- (2) An order under subsection (1) above may provide for the re-hearing to be as follows,—
  - (a) if the inquiry was held in England, Wales or Northern Ireland, by the persons who held it, by a wreck commissioner or by the High Court;
  - (b) if it was held in Scotland, by the persons who held it, by the sheriff or by the Court of Session.
- (3) Any re-hearing under this section which is not held by the High Court or the Court of Session shall be conducted in accordance with rules made under section 65(1).
- (4) Where the persons holding the inquiry have decided to cancel or suspend the certificate of any person or have found any person at fault, then, if no application for an order under subsection (1) above has been made or such an application has been refused, that person or any other person who, having an interest in the inquiry, has appeared at the hearing and is affected by the decision or finding, may appeal—
  - (a) to the High Court if the inquiry was held in England, Wales or Northern Ireland;
  - (b) to the Court of Session if it was held in Scotland.

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

- C9** Ss. 62-69 applied (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **38(3)**

**65 Rules as to inquiries and appeals.**

- (1) The Secretary of State may make rules for the conduct of inquiries under sections 61 and 63 and for the conduct of any re-hearing under section 64 which is not held by the High Court or the Court of Session.
- (2) Without prejudice to the generality of subsection (1) above, rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.
- (3) Rules of court made for the purpose of re-hearings under section 64 which are held by the High Court, or of appeals to the High Court, may require the court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a re-hearing or hear such an appeal with the assistance of one or more assessors.

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

- C9** Ss. 62-69 applied (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **38(3)**

**66 Failure to deliver cancelled or suspended certificate.**

If a person fails to deliver a certificate as required under section 61, 62 or 63 he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.



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

- C9** Ss. 62-69 applied (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **38(3)**

**67 Power to restore certificate.**

Where a certificate has been cancelled or suspended under section 61, 62, 63 or 64, the Secretary of State, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

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

- C9** Ss. 62-69 applied (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **38(3)**

**68 Power to summon witness to inquiry into fitness or conduct of officer or other seaman.**

- (1) The persons holding an inquiry under section 61 or 63 may—
  - (a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and
  - (b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.
- (2) If on the failure of a person to attend such an inquiry in answer to a summons under this section—
  - (a) the persons holding the inquiry are satisfied by evidence on oath—
    - (i) that the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry,
    - (ii) that he has been duly served with the summons, and
    - (iii) that a reasonable sum has been paid or tendered to him for costs and expenses, and
  - (b) it appears to them that there is no just excuse for the failure, they may issue a warrant to arrest him and bring him before the inquiry at a time and place specified in the warrant.
- (3) If any person attending or brought before such an inquiry refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may—
  - (a) commit him to custody until the end of such period not exceeding one month as may be specified in the warrant or until he gives evidence or produces the document (whichever occurs first), or
  - (b) impose on him a fine not exceeding £1,000,

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or both.

- (4) A fine imposed under subsection (3)(b) above shall be treated for the purposes of its collection, enforcement and remission as having been imposed by the magistrates' court for the area in which the inquiry in question was held, and the persons holding the inquiry shall, as soon as practicable after imposing the fine, give particulars of it to the [<sup>F19</sup>proper officer] of that court.

[<sup>F20</sup>(4A) In subsection [<sup>F21</sup>(4)] above “proper officer” means—

- (a) in relation to a magistrates' court in England and Wales, the [<sup>F22</sup>designated officer] for the court, and  
(b) in relation to a magistrates' court in Northern Ireland, the clerk of the court.]

- (5) This section does not apply to Scotland.

#### Textual Amendments

- F19** Words in s. 68(4) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 174(2)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**
- F20** S. 68(4A) inserted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 174(3)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**
- F21** Word in s. 68(4A) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 366(a)**; S.I. 2005/910, **art. 3(y)**
- F22** Words in s. 68(4A) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 366(b)**; S.I. 2005/910, **art. 3(y)**

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

- C9** Ss. 62-69 applied (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **38(3)**

### 69 Procedure where inquiry into fitness or conduct of officer or other seaman is held by sheriff.

Where an inquiry under section 61 or 63 is held in Scotland by a sheriff—

- (a) he shall (subject to rules made under section 65(1)) dispose of the inquiry as a summary application; and  
(b) (subject to section 64) his decision on the inquiry shall be final.

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

- C9** Ss. 62-69 applied (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **38(3)**

### *Civil liability of seamen for offences*

### 70 Civil liability for absence without leave.

- (1) The following provisions of this section shall apply with respect to the liability of a seaman employed in a United Kingdom ship to damages for being absent from his ship at a time when he is required under his contract of employment to be on board.

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- (2) If he proves that his absence was due to an accident or mistake or some other cause beyond his control and that he took all reasonable precautions to avoid being absent his absence shall not be treated as a breach of contract.
- (3) Where subsection (2) above does not apply, then—
  - (a) if no special damages are claimed his liability shall be £10;
  - (b) if special damages are claimed his liability shall not be more than £100.
- (4) In the application of this section to Scotland for the references to special damages there shall be substituted references to damage in respect of specific expense incurred or loss sustained.
- [<sup>F23</sup>(5) Subsection (3) does not apply in respect of an agreement to reimburse repatriation costs.]

#### Textual Amendments

**F23** S. 70(5) inserted (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Consequential and Minor Amendments\) Regulations 2014](#) (S.I. 2014/1614), regs. 1, **2(5)**

### 71 Civil liability for smuggling.

If a seaman employed in a United Kingdom ship is found in civil proceedings before a court in the United Kingdom to have committed an act of smuggling, whether within or outside the United Kingdom, he shall be liable to make good any loss or expense that the act has caused to any other person.

### 72 Civil liability for fines imposed under immigration laws.

- (1) The following provisions of this section shall apply where, at a time when a United Kingdom ship is in the national or territorial waters of any country outside the United Kingdom, a seaman employed in the ship is absent without leave and present in that country in contravention of that country's laws.
- (2) If, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seaman the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 70, be recovered from him as special damages for breach of contract (or, in Scotland, as damages in respect of specific expense incurred or loss sustained).
- (3) If, by reason of the contravention, a penalty is incurred under those laws by any other person the amount thereof, or, if that amount exceeds £100, £100, may be recovered by him from the seaman.

#### *Relief and repatriation and relief costs*

### 73 Relief and return of seamen etc. left behind and shipwrecked.

- (1) Where—

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- (a) a person employed as a seaman in a United Kingdom ship is left behind in any country outside the United Kingdom or is taken to such a country on being shipwrecked; or
- (b) a person who became so employed under an agreement entered into outside the United Kingdom is left behind in the United Kingdom or is taken to the United Kingdom on being shipwrecked;

the persons who last employed him as a seaman shall make such provision for his return and for his relief and maintenance until his return and such other provisions as may be required by regulations made by the Secretary of State.

- (2) The provisions to be so made may include the repayment of expenses incurred in bringing a shipwrecked seaman ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seaman who dies before he can be returned.
- (3) The Secretary of State may also make regulations providing for the manner in which any wages due to any person left behind or taken to any country as mentioned in subsection (1) above, and any property of his left on board ship, are to be dealt with.
- (4) The Secretary of State may make regulations requiring a superintendent or proper officer—
  - (a) to make such provision as may be prescribed by the regulations with respect to any matter for which provision may be required to be made by regulations under the preceding provisions of this section; and
  - (b) to make the like provision with respect to persons who are British citizens, British Dependent Territories citizens or British overseas citizens and are found in distress in any country outside the United Kingdom after being employed in ships registered in, or belonging to the government of, such a country.
- (5) Without prejudice to the generality of the preceding provisions, regulations made under this section may make provision—
  - (a) for determining the place to which a person is to be returned;
  - (b) for requiring the master of any United Kingdom ship to convey a person to a place determined in accordance with the regulations and for enabling a superintendent or proper officer to give the master directions for that purpose;
  - (c) for the making of payments in respect of the conveyance of a person in accordance with the regulations; and
  - (d) for the keeping of records and the rendering of accounts.
- (6) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.
- (7) This section applies to a person left behind on being discharged in pursuance of section 29, whether or not at the time he is left behind the ship is still a United Kingdom ship.
- (8) This section applies to the master of a ship as it applies to a seaman and sections 74 and 75 shall have effect accordingly.

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#### **74 Limit of employer's liability under section 73.**

Where a person left behind in or taken to any country as mentioned in section 73(1) remains there after the end of a period of three months the persons who last employed him as a seaman shall not be liable under that section to make provision for his return or for any matter arising after the end of that period, unless they have before the end of that period been under an obligation imposed on them by regulations under that section to make provision with respect to him.

#### **75 Recovery of expenses incurred for relief and return, etc.**

(1) Where any expenses are incurred in respect of any matter for which the employers of a seaman are required to make provision under section 73, then—

- (a) if the expenses are incurred by the Secretary of State, or are incurred by the government of any country outside the United Kingdom and repaid to them on behalf of the Crown, the Secretary of State may recover them from the employers;
- (b) if the expenses are incurred by the seaman he may recover them from the employers unless they prove either that under the terms of his employment they were to be borne by him or that he would not have been left behind but for his own wrongful act or neglect.

(2) Where, in the case of any seaman, expenses are incurred by the Secretary of State or are incurred by the government of any country outside the United Kingdom and repaid to them on behalf of the Crown—

- (a) in respect of any matter for which, but for section 74, the seaman's last employers would have been required to make provision under section 73; or
- (b) in respect of any matter for which provision is required to be made under section 73(4)(b);

the Secretary of State may recover them from the seaman (or, if he has died, from his personal representatives).

#### **76 Financial assistance in respect of crew relief costs.**

(1) The Secretary of State may, with the consent of the Treasury, give financial assistance to—

- (a) the owner of a ship registered in the British Islands, or
- (b) any manager of a ship so registered, being either an individual ordinarily resident in the British Islands or a body corporate which is incorporated in the British Islands and has its principal place of business there,

in respect of travel and other costs incurred by the owner or manager in connection with members of the ship's crew joining or leaving the ship outside the limited European trading area.

(2) If the Secretary of State so determines, eligibility for assistance under this section shall be conditional on the fulfilment of such conditions with respect to all or any of the following matters as are specified in his determination—

- (a) the nationality of any person in relation to whom any such costs as are mentioned in subsection (1) above are incurred;
- (b) the ordinary residence of any such person;

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- (c) the place (outside the limited European trading area) where any such person joins or leaves his ship.
- (3) Assistance under this section may be given by way of a grant or loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit.
- (4) For the purposes of this section—
- (a) the crew of a ship shall be taken to include the master and other officers of the ship; and
  - (b) “the limited European trading area” has the same meaning as it has for the purposes of any regulations made under section 47.

#### *Documentation*

### **77 Official log books.**

- (1) Except as provided by regulations under this section an official log book in a form approved by the Secretary of State shall be kept in every United Kingdom ship.
- (2) The Secretary of State may make regulations prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in their amendment or cancellation.
- (3) The regulations may require the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified therein.
- (4) Regulations under this section may exempt ships of any description from any requirements thereof, either generally or in such circumstances as may be specified in the regulations.
- (5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (6) If a person intentionally destroys or mutilates or renders illegible any entry in an official log book he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **78 Lists of crew.**

- (1) Except as provided by regulations made under this section, the master of every United Kingdom ship shall make and maintain a list of the crew containing such particulars as may be required by the regulations.
- (2) The Secretary of State may make regulations—
  - (a) specifying the particulars to be entered in a list of the crew;
  - (b) limiting the time for which a list of the crew may remain in force;
  - (c) providing for the maintenance by such persons and either in such place as may be specified in the regulations or, if it is so specified, in the ship, of a copy or copies of each list of a crew, and for the notification to such persons of any changes therein;

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- (d) for the production of a list of the crew to such persons, in such circumstances and within such time as may be specified in the regulations; and
  - (e) for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen, in such circumstances as may be specified in the regulations, of a list of the crew or a copy thereof maintained under the regulations and for the notification to him of any changes in such a list.
- (3) Regulations under this section may enable a list of the crew to be contained in the same document as a crew agreement and may treat any particulars entered in the crew agreement as forming part of the particulars entered in the list.
- (4) Regulations under this section may exempt from the requirements thereof such descriptions of ship as may be specified in the regulations and may make different provisions for different circumstances.
- (5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.

## 79 British seamen's cards.

- (1) The Secretary of State may make regulations providing—
- (a) for the issue to British seamen of cards (in this section referred to as “British seamen’s cards”) in such form and containing such particulars with respect to the holders thereof and such other particulars (if any) as may be prescribed by the regulations, and for requiring British seamen to apply for such cards;
  - (b) for requiring the holders of British seamen’s cards to produce them to such persons and in such circumstances as may be prescribed by the regulations;
  - (c) for the surrender of British seamen’s cards in such circumstances as may be prescribed by the regulations;
  - (d) for any incidental or supplementary matters for which the Secretary of State thinks it expedient for the purposes of the regulations to provide;
- and any provision of the regulations having effect by virtue of paragraph (a) above may be so framed as to apply to all British seamen or any description of them and as to have effect subject to any exemptions for which provision may be made by the regulations.
- (2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (3) In this section “British seamen” means persons who are not aliens within the meaning of the <sup>M8</sup>British Nationality Act 1981 and are employed, or ordinarily employed, as masters or seamen.
- (4) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a British seaman’s card he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### Marginal Citations

M8 1981 c. 61.

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## 80 Discharge books.

(1) The Secretary of State may make regulations providing—

- <sup>F24</sup><sup>F24</sup>(a) for the issue of discharge books—
- (i) to persons who are or have been employed in United Kingdom ships; or
  - (ii) to persons who are or have been employed in other ships but are not aliens within the meaning of the <sup>M9</sup>British Nationality Act 1981;
- <sup>F24</sup>(aa) for requiring the persons mentioned in paragraph (a) above to apply for discharge books;
- <sup>F24</sup>(ab) for the form of discharge books and the particulars (if any) that they are to contain with respect to their holders;]
- (b) for requiring the holders of discharge books to produce them to such persons and in such circumstances as may be prescribed by the regulations;
  - (c) for the surrender of discharge books in such circumstances as may be prescribed by the regulations;
  - (d) for any incidental or supplementary matters for which the Secretary of State thinks it expedient for the purposes of the regulations to provide;

and any provision of the regulations having effect by virtue of [<sup>F25</sup>paragraph (a), (aa) or (ab)] above may be so framed as to apply to all such persons as are mentioned in that paragraph or any description of such persons and as to have effect subject to any exemptions for which provision may be made by the regulations.

(2) Regulations under this section may—

- (a) provide for a person to cease to be entitled to a discharge book in consequence of a recommendation made by a disciplinary body by virtue of regulations made under section 60(3) or (4); and
- (b) provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.

(3) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.

(4) A person who, in the United Kingdom or elsewhere—

- (a) obtains employment as a seaman on board a United Kingdom ship and does so when he is disentitled to a discharge book by virtue of regulations made under subsection (2)(a) above; or
- (b) employs as such a seaman a person who he knows or has reason to suspect is disentitled as aforesaid,

shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

### Textual Amendments

**F24** S. 80(1)(a)-(ab) substituted (17.7.1997) for s. 80(1)(a) by 1997 c. 28, s. 18(1); S.I. 1997/1539, art. 2, Sch.

**F25** Words in s. 80(1) substituted (17.7.1997) by 1997 c. 28, s. 18(2); S.I. 1997/1539, art. 2, Sch.



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#### Commencement Information

**I3** S. 80 partly in force; s. 80(1)(3) in force at 1.1.1996, see ss. 314, 316(2), Sch. 14 para. 5

#### Marginal Citations

**M9** 1981 c. 61.

### 81 Handing over of documents by master.

- (1) If a person ceases to be the master of a United Kingdom ship during a voyage of the ship he shall deliver to his successor the documents relating to the ship or its crew which are in his custody.
- (2) If, without reasonable excuse, the master of such a ship fails to comply with subsection (1) above, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### *Merchant Navy Reserve*

### 82 Maintenance of Merchant Navy Reserve.

- (1) The Secretary of State may maintain the body of persons known as the Merchant Navy Reserve whose members may, in such circumstances and for such periods as the Secretary of State may determine, be required by him to serve in ships belonging to or employed in the service of Her Majesty.
- (2) The Merchant Navy Reserve shall consist of such number of persons as the Secretary of State may determine who voluntarily undertake to become members of the Reserve and are accepted as members of it.
- (3) The Secretary of State may determine the procedure by which, and the conditions under which, persons may become, or (subject to any regulations made by him under this section) may cease to be, members of the Merchant Navy Reserve.
- (4) The Secretary of State may make regulations with respect to the calling into, and discharge from, service of members of the Merchant Navy Reserve and with respect to other matters relating to the service of members of the Reserve.
- (5) Any such regulations may, in particular, make provision—
  - (a) for call-out notices to be served on members of the Reserve;
  - (b) for the requirements to be complied with by persons on whom such notices have been served;
  - (c) as to the uniform and equipment with which members of the Reserve are to be provided;
  - (d) for regulating the conduct and discipline of members of the Reserve who have entered into service, and for securing their attendance at their places of duty;
  - (e) for the imposition of fines, or the forfeiture of pay or other amounts, for misconduct or breaches of discipline or for contravention of provisions of the regulations.
- (6) Without prejudice to the operation of subsection (5)(e) above, regulations under this section may provide that a contravention of the regulations shall be an offence

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punishable on summary conviction by a fine not exceeding level 3 on the standard scale or such lower amount as is prescribed by the regulations.

- (7) Regulations under this section may make different provision for different circumstances.

### 83 Supplementary provisions as respects the Reserve.

- (1) Subject to such conditions as the Secretary of State may determine, there shall be payable to members of the Merchant Navy Reserve such pay, bounties and allowances as he may determine.
- (2) The Secretary of State may make such payments as he thinks fit in connection with the training and certification of members of the Merchant Navy Reserve (including payments to persons undergoing such training and payments in connection with the re-validation of certificates).
- (3) The Secretary of State shall not make any determination under subsection (1) above, or any payment under subsection (2) above, except with the consent of the Treasury.
- (4) Where any person is called into service by virtue of regulations under section 82—
- (a) the provisions of the <sup>M10</sup>Reserve Forces (Safeguard of Employment) Act 1985 shall apply to that person as if any service rendered by him in pursuance of the call-out were whole-time service within the meaning of that Act; and
  - (b) any service so rendered shall be relevant service within the meaning of the <sup>M11</sup>Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.

#### Marginal Citations

**M10** 1985 c. 17.

**M11** 1951 c. 65.

### Interpretation

### 84 Interpretation.

- (1) In this Part—
- “crew agreement” has the meaning given to it by section 25(2);
  - “relief and maintenance” includes the provision of surgical or medical treatment and such dental and optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency; and
  - “ship’s boat” includes a life-raft.
- (2) References in this Part to going to sea include references to going to sea from any country outside the United Kingdom.
- (3) For the purposes of this Part a seaman is discharged from a ship when his employment in that ship is terminated.
- (4) For the purposes of this Part a seaman discharged from a ship in any country and left there shall be deemed to be left behind in that country notwithstanding that the ship also remains there.

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- (5) Any power conferred by this Part to provide for or grant an exemption includes power to provide for or grant the exemption subject to conditions.

## PART IV

### SAFETY

#### *Safety and Health on Ships*

#### **85 Safety and health on ships.**

- (1) The Secretary of State may by regulations (in this Act referred to as “safety regulations”) make such provision as he considers appropriate for all or any of the following purposes—

(a) for securing the safety of United Kingdom ships and persons on them, and for protecting the health of persons on United Kingdom ships;

<sup>F26</sup>[(b) for securing the safety of other ships and persons on them while they are within United Kingdom waters and for protecting the health of persons on ships other than United Kingdom ships while they are within United Kingdom waters.]

<sup>F27</sup>[(1A) Except as provided by subsection (1B) below, safety regulations shall not apply in relation to—

(a) a qualifying foreign ship while it is exercising—

(i) the right of innocent passage; or

(ii) the right of transit passage through straits used for international navigation; or

(b) persons on such a ship while it is exercising any such right.

<sup>F27</sup>(1B) Safety regulations shall apply in relation to a qualifying foreign ship, and persons on such a ship, even though the ship is exercising a right mentioned in subsection (1A) (a) above, to the extent that the safety regulations give effect to any provisions of an international agreement ratified by the United Kingdom so far as it relates to the safety of ships or persons on them or to the protection of the health of persons on ships.]

- (2) In subsection (1) above “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—

(i) a British citizen, a British Dependent Territories citizen or a British Overseas citizen, or

(ii) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.

- (3) Regulations in pursuance of subsection (1)(a) or (b) above may make provision with respect to any of the following matters, <sup>F28</sup>. . . , that is to say—

(a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;

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- (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;
- (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; and
- (q) the furnishing of information;

but the mention of specific matters in this subsection shall not be construed as restricting the generality of the power conferred by [<sup>F29</sup>paragraph (a) or (b)] of subsection (1) above.

- (4) The power to make regulations conferred by [<sup>F30</sup>subsection (1)]above shall extend also to the making of regulations for the prevention of collisions between seaplanes on the surface of water and between ships and seaplanes and subsection (3)(k) above and (5) to (7) below and section 86(1) shall have effect accordingly.
- (5) 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

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- (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.
- (6) Without prejudice to section 86(1)(b), 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.
- (7) 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 284 shall have effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship;
  - (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;
  - (c) 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, or such less amount as is prescribed by the regulations;
  - (d) 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 (c) above;
  - (e) that, notwithstanding anything in paragraph (b) or (c) above, 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.
- [<sup>F31</sup>(8) Safety regulations which make provision in respect of the prohibition of smoking on any ship (“the smoking provisions”) may include provision—
- (a) for the appointment by the Secretary of State of persons to enforce the smoking provisions (whether in respect of ships generally or for any particular case or purpose), and for the removal of any person so appointed,
  - (b) for such persons (if they are not surveyors of ships appointed under section 256) to have the powers of such surveyors for the purposes of their enforcement functions,
  - (c) for any such persons to have, for the purposes of their enforcement functions, powers corresponding to those which authorised officers have under paragraphs 2(b) to (e), 3 and 4, as read with paragraphs 5 and 9, of Schedule 2 to the Health Act 2006 (which confers powers of entry, etc., on authorised officers of enforcement authorities in relation to the enforcement of the provisions of that Act in relation to smoking),
  - (d) in relation to an offence of smoking in a place where smoking is prohibited under the smoking provisions, for purposes corresponding to those of section 9 of and Schedule 1 to the Health Act 2006 (which provide for the giving by authorised officers of penalty notices in respect of such an offence).

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In this subsection, “smoking” has the same meaning as in Chapter 1 of Part 1 of the Health Act 2006.]

#### Textual Amendments

- F26** S. 85(1)(b) substituted (19.3.1997) for s. 85(1)(b)(c) and the words following para. (c) by 1997 c. 28, ss. 8(2), 31(4)
- F27** S. 85(1A)(1B) inserted (19.3.1997) by 1997 c. 28, ss. 8(3), 31(4)
- F28** Words in s. 85(3) omitted (19.3.1997) by virtue of 1997 c. 28, ss. 8(4)(a), 31(4) and repealed (23.3.1997) by 1997 c. 28, s. 29(2), Sch. 7 Pt. I; S.I. 1997/1082, art. 2, Sch. Appendix
- F29** Words in s. 85(3) substituted (19.3.1997) by 1997 c. 28, ss. 8(4)(b), 31(4)
- F30** Words in s. 85(4) substituted (19.3.1997) by 1997 c. 28, s. 8(5)
- F31** S. 85(8) added (19.7.2006 for specified purposes, 2.4.2007 for W. in so far as not already in force, 1.7.2007 for E.S.N.I. in so far as not already in force) by Health Act 2006 (c. 28), ss. 5(4), 83(1)(e)(4) (a) (with s. 12(3)(4)); S.I. 2007/204, art. 2(a); S.I. 2007/1375, art. 2(a)

## 86 Provisions supplementary to section 85: general.

### (1) Safety regulations may—

- (a) make different provision 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;
- (e) make provision for compensation to be paid, where a signal is used or displayed otherwise than in accordance with the regulations, for any expense or loss caused in consequence of the signal’s being taken for a signal of distress;

and any compensation falling to be paid by virtue of regulations under paragraph (e) above may, without prejudice to any other remedy, be recovered in the same manner as salvage.

### (2) The Secretary of State may by regulations—

- (a) make such repeals or other modifications of provisions of the Merchant Shipping Acts 1894 to 1977 re-enacted in this Act, and of any instruments made under those Acts as he considers appropriate in consequence or in anticipation of the making of safety regulations;
- (b) make such repeals or other modifications of provisions of any enactment passed and any instrument made before 4th April 1979 as he considers appropriate in connection with any modification made or to be made in pursuance of paragraph (a);
- (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.

*Status:* Point in time view as at 01/04/2015. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) Nothing in section 85(3) to (6) or subsection (1) above shall be construed as prejudicing the generality of section 85(1).

(4) 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.

<sup>F32</sup>(5) .....

<sup>F32</sup>(6) .....

**Textual Amendments**

**F32** S. 86(5)(6) repealed (23.3.1997) by 1997 c. 28, s. 29(2), **Sch. 7 Pt. I**; S.I. 1997/1082, art. 2, **Sch. Appendix**

**87 Provisions supplementary to section 85: dangerous goods.**

(1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any ship, whether or not a United Kingdom ship—

- (a) without being marked as required by safety regulations,
- (b) without such notice having been given as is required by safety regulations,
- (c) under a false description, or
- (d) with a false description of their sender or carrier,

any court having Admiralty jurisdiction may declare the goods, and any package or receptacle in which they are contained, to be forfeited.

(2) On a declaration of forfeiture being made, the goods shall be forfeited and they shall be disposed of as the court directs.

(3) The powers conferred on the court by subsections (1) and (2) above are exercisable notwithstanding that the owner of the goods—

- (a) has not committed any offence under safety regulations relating to dangerous goods;
- (b) is not before the court; and
- (c) has no notice of the proceedings;

and notwithstanding that there is no evidence to show to whom the goods belong.

(4) Nevertheless, the court may, in their discretion, require such notice as they may direct to be given to the owner or shipper of the goods before they are forfeited.

(5) In this section “dangerous goods” means goods designated as dangerous goods by safety regulations.

**88 Safety of submersible and supporting apparatus.**

(1) This section applies to any submersible or supporting apparatus—

- (a) operated within United Kingdom waters, or
- (b) launched or operated from, or comprising, a United Kingdom ship.

*Status: Point in time view as at 01/04/2015. This version of this Act contains provisions that are prospective.*

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- (2) The Secretary of State may make regulations —
  - (a) for the safety of submersible and supporting apparatus;
  - (b) for the prevention of accidents in or near submersible or supporting apparatus;
  - (c) for the safety, health and welfare of persons on or in submersible and supporting apparatus;
  - (d) for prohibiting or otherwise restricting the operation of any submersible apparatus except in accordance with the conditions of a licence granted under the regulations; and
  - (e) for the registration of submersible apparatus.

(3) Schedule 2 shall have effect for supplementing the provisions of this section.

(4) In this section—

“apparatus” includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment;

“specified” means specified in regulations made by the Secretary of State for the purposes of this section;

“submersible apparatus” means any apparatus used, or designed for use, in supporting human life on or under the bed of any waters or elsewhere under the surface of any waters; and

“supporting apparatus” means any apparatus used, or designed for use, in connection with the operation of any submersible apparatus.

*Special provisions*

*Report of dangers to navigation.*

<sup>F33</sup>89 .....

.....

**Textual Amendments**

**F33** S. 89 repealed (12.10.1998) by [S.I. 1998/2241](#), [reg. 3\(1\)\(a\)](#)

<sup>F34</sup>90 .....

.....

**Textual Amendments**

**F34** S. 90 repealed (1.12.1998) by [S.I. 1998/2647](#), [reg. 1\(2\)\(a\)](#)

- 91 (1) <sup>F35</sup> .....
- (2) <sup>F35</sup> .....
- (3) <sup>F35</sup> .....
- (4) <sup>F35</sup> .....



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(5) Every person in charge of a controlled station for wireless telegraphy shall, on receiving the signal prescribed [<sup>F36</sup>under safety regulations relating to dangers to navigation, which indicates that a message is about to be sent under those regulations], refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by the Secretary of State, shall transmit the message in such manner as may be required by the Secretary of State.

(6) Compliance with subsection (5) above shall be deemed to be a condition of every wireless telegraphy licence.

(7) In this section—

“controlled station for wireless telegraphy” means such a station controlled by the Secretary of State [<sup>F37</sup>or by the Office of Communications] ; and “controlled” includes controlled by means of a licence granted [<sup>F38</sup>by the Office of Communications] ;

<sup>F39</sup> . . . .

[<sup>F40</sup>“wireless telegraphy licence” has the same meaning as in the Wireless Telegraphy Act 2006, and “station for wireless telegraphy” has the same meaning as “wireless telegraphy station” in that Act.]

<sup>F41</sup> . . . .

#### Textual Amendments

- F35** S. 91(1)-(4) repealed (1.7.2002) by S.I. 2002/1473, reg. 3(1), **Sch. 1 para. 1(1)**
- F36** Words in s. 91(5) substituted (1.7.2002) by S.I. 2002/1473, reg. 3(2), **Sch. 2 para. 1**
- F37** Words in s. 91(7) inserted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 132(a)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F38** Words in s. 91(7) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 132(b)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F39** Definition of “tropical storm” in s. 91(7) omitted (1.7.2002) by virtue of S.I. 2002/1473, reg. 3(1), **Sch. 1 para. 1(2)**
- F40** Words in s. 91(7) substituted (8.2.2007) by Wireless Telegraphy Act 2006 (c. 36), s. 126(2), **Sch. 7 para. 15**
- F41** Words in s. 91(7) omitted (1.7.2002) by virtue of S.I. 2002/1473, reg. 3(1), **Sch. 1 para. 1(2)**

### *Assistance at sea*

## **92 Duty of ship to assist the other in case of collision.**

(1) In every case of collision between two ships, it shall be the duty of the master of each ship, if and so far as he can do so without danger to his own ship, crew and passengers (if any)—

- (a) to render to the other ship, its master, crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other ship until he has ascertained that it has no need of further assistance; and
- (b) to give to the master of the other ship the name of his own ship and also the names of the ports from which it comes and to which it is bound.

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- (2) The duties imposed on the master of a ship by subsection (1) above apply to the masters of United Kingdom ships and to the masters of foreign ships when in United Kingdom waters.
- (3) The failure of the master of a ship to comply with the provisions of this section shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default.
- (4) If the master fails without reasonable excuse to comply with this section, he shall—
  - (a) in the case of a failure to comply with subsection (1)(a) above, be liable—
    - (i) on summary conviction, to [<sup>F42</sup>a fine not exceeding £50,000][<sup>F42</sup>a fine] or imprisonment for a term not exceeding six months or both;
    - (ii) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both; and
  - (b) in the case of a failure to comply with subsection (1)(b) above, be liable—
    - (i) on summary conviction, to a fine not exceeding the statutory maximum;
    - (ii) on conviction on indictment, to a fine;
 and in either case if he is a certified officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

**Textual Amendments**

**F42** Words in s. 92(4)(a)(i) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(4\)](#) (with reg. 5(1))

**93 Duty to assist [<sup>F43</sup>aircraft] in distress.**

(1) The master of a ship, on receiving at sea a signal of distress [<sup>F44</sup>from an aircraft] or information from any source that [<sup>F45</sup>an] aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released from this duty under subsection (4) or (5) below.

<sup>F46</sup>(2) .....

(3) The duties imposed on the master of a ship by [<sup>F47</sup>subsection (1)]above apply to the masters of United Kingdom ships and to the masters of foreign ships when in United Kingdom waters.

<sup>F48</sup>(4) .....

(5) A master shall be released from the duty imposed by subsection (1) above <sup>F49</sup>...if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(6) If a master fails to comply with the preceding provisions of this section he shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (7) Compliance by the master of a ship with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

#### Textual Amendments

- F43** Words in sidenote to s. 93 substituted (10.8.1998) by S.I. 1998/1691, reg. 2(7)
- F44** Words in s. 93(1) added (10.8.1998) by S.I. 1998/1691, reg. 2(2)(a)
- F45** Words in s. 93(1) substituted (10.8.1998) by S.I. 1998/1691, reg. 2(2)(b)
- F46** S. 93(2) omitted (10.8.1998) by virtue of S.I. 1998/1691, reg. 2(3)
- F47** Words in s. 93(3) substituted (10.8.1998) by S.I. 1998/1691, reg. 2(4)
- F48** S. 93(4) omitted (10.8.1998) by virtue of S.I. 1998/1691, reg. 2(5)
- F49** Words in s. 93(5) omitted (10.8.1998) by virtue of S.I. 1998/1691, reg. 2(6)

### *Unsafe ships*

#### 94 Meaning of “dangerously unsafe ship”.

- (1) For the purposes of sections 95, 96, 97 and 98 a ship [<sup>F50</sup>in port] is “dangerously unsafe” if, having regard to the nature of the service for which it is intended, the ship is, by reason of the matters mentioned in subsection (2) below, unfit to go to sea without serious danger to human life.

<sup>F51</sup>[(1A) For the purposes of those sections a ship at sea is “dangerously unsafe” if, having regard to the nature of the service for which it is being used or is intended, the ship is, by reason of the matters mentioned in subsection (2) below, either—

- (a) unfit to remain at sea without serious danger to human life, or  
(b) unfit to go on a voyage without serious danger to human life.]

(2) Those matters are—

- (a) the condition, or the unsuitability for its purpose, of—  
(i) the ship or its machinery or equipment, or  
(ii) any part of the ship or its machinery or equipment;  
(b) undermanning;  
(c) overloading or unsafe or improper loading;  
(d) any other matter relevant to the safety of the ship;

and are referred to in those sections, in relation to any ship, as “the matters relevant to its safety”.

- (3) Any reference in those sections to “going to sea” shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

#### Textual Amendments

- F50** Words in s. 94(1) inserted (23.3.1997) by 1997 c. 28, s. 9, Sch. 1 para. 1(2); S.I. 1997/1082, art. 2, Sch.

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**F51** S. 94(1A) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 1(3)**; S.I. 1997/1082, art. 2, **Sch.**

## 95 Power to detain dangerously unsafe ship.

<sup>F52</sup>[(1) Where a ship which is—

- (a) in a port in the United Kingdom, or
- (b) at sea in United Kingdom waters,

appears to a relevant inspector to be a dangerously unsafe ship, the ship may be detained.]

(2) [<sup>F53</sup>Subject to subsection (2A) below]the power of detention conferred by subsection (1) above is exercisable in relation to foreign ships as well as United Kingdom ships.

<sup>F53</sup>[(2A) The power of detention conferred by subsection (1)(b) is not exercisable in relation to a qualifying foreign ship while the ship is exercising—

- (a) the right of innocent passage, or
- (b) the right of transit passage through straits used for international navigation.]

(3) The officer detaining the ship shall serve on the master of the ship a detention notice which shall—

- (a) state that the relevant inspector is of the opinion that the ship is a dangerously unsafe ship;
- (b) specify the matters which, in the relevant inspector’s opinion, make the ship a dangerously unsafe ship; and
- (c) [<sup>F54</sup>require the ship to comply with the terms of the notice] until it is released by a competent authority.

(4) In the case of a ship which is not a British ship the officer detaining the ship shall cause a copy of the detention notice to be sent as soon as practicable to the nearest consular officer for the country to which the ship belongs.

(5) In this section—

“competent authority” means any officer mentioned in section 284(1); and  
“relevant inspector” means any person mentioned in paragraph (a), (b) or (c) of section 258(1).

### Textual Amendments

**F52** S. 95(1) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 2(2)**; S.I. 1997/1082, art. 2, **Sch.**

**F53** S. 95(2A) and words in s. 95(2) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 2(3)**; S.I. 1997/1082, art. 2, **Sch.**

**F54** Words in s. 95(3)(c) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 2(4)**; S.I. 1997/1082, art. 2, **Sch.**

## 96 References of detention notices to arbitration.

(1) Any question as to whether any of the matters specified in relation to a ship in a detention notice in pursuance of section 95(3)(b) in connection with any opinion formed by the relevant inspector constituted a valid basis for that opinion shall, if the master or owner of the ship so requires by a notice given to the relevant inspector

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within 21 days from the service of the detention notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.

- (2) Where a notice is given by the master or owner of the ship in accordance with subsection (1) above, the giving of the notice shall not suspend the operation of the detention notice unless, on the application of the person requiring the reference, the arbitrator so directs.
- (3) The arbitrator shall have regard, in coming to his decision, to any other matters not specified in the detention notice which appear to him to be relevant to whether the ship was or was not a dangerously unsafe ship.
- (4) Where on a reference under this section the arbitrator decides as respects any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector’s opinion he shall either cancel the detention notice or affirm it with such modifications as he may in the circumstances think fit; and in any other case the arbitrator shall affirm the notice in its original form.
- (5) The arbitrator shall include in his decision a finding whether there was or was not a valid basis for the detention of the ship as a dangerously unsafe ship.
- (6) A person shall not be qualified for appointment as an arbitrator under this section unless he is—
  - (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or a person holding a certificate equivalent to any such certificate;
  - (b) a naval architect;
  - (c) a person falling within subsection (7); or
  - (d) a person with special experience of shipping matters, of the fishing industry, or of activities carried on in ports.
- (7) For the purposes of subsection (6)(c) a person falls within this subsection if—
  - <sup>F55</sup>(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;
  - (b) he is an advocate or solicitor in Scotland of at least <sup>F56</sup>7 years’ standing; or
  - (c) he is a member of the bar of Northern Ireland or <sup>F57</sup>solicitor of the Court of Judicature of Northern Ireland] of at least <sup>F58</sup>7 years’ standing.
- (8) In connection with his functions under this section an arbitrator shall have the powers conferred on an inspector by section 259.
- (9) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in subsection (1) above to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by the sheriff.
- <sup>F59</sup>(10) .....
- (11) In this section “relevant inspector” has the same meaning as in section 95.

**Textual Amendments**

**F55** S. 96(7)(a) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 10 para. 26(2); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)

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- F56** Word in s. 96(7)(b) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 26(3)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F57** Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 5**; S.I. 2009/1604, art. 2(d)
- F58** Word in s. 96(7)(c) substituted (21.7.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 10 para. 26(3)**; S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F59** S. 96(10) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4**; S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

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

- C10** S. 96 applied (with modifications) (1.1.1996) by S.I. 1995/3128, **reg. 10(2)**  
 S. 96 applied (31.3.1998) by S.I. 1997/2962, **reg. 30**  
 S. 96 applied (30.10.1998) by S.I. 1998/2411, **reg. 16**  
 S. 96 applied (31.12.1998) by S.I. 1998/2857, **reg. 13**  
 S. 96 applied (25.10.1999) by S.I. 1999/2205, **reg. 17**  
 S. 96 applied (with modifications) (1.11.2001) by S.I. 2001/3209, **reg. 9(8)**  
 S. 96 applied (with modifications) (15.2.2002) by S.I. 2001/3444, **reg. 13**  
 S. 96 applied (with modifications) (23.11.2002) by S.I. 2002/2201, **reg. 12**  
 S. 96 applied (with modifications) (1.9.2002) by S.I. 2002/2055, **reg. 16**  
 S. 96 applied (with modifications) (7.9.2002) by S.I. 2002/2125, **reg. 18(1)(2)**
- C11** S. 96 applied (with modifications) (15.7.2003) by The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (S.I. 2003/1809), regs. 1(1), **23** (with reg. 3)
- C12** S. 96 amendment to earlier affecting provision S.I. 1995/3128, reg. 10(2) (as substituted (22.7.2003) by The Merchant Shipping (Port State Control) (Amendment) Regulations 2003 (S.I. 2003/1636), art. 1, **reg. 11(3)**)
- C13** S. 96 applied (with modifications) (16.8.2004) by The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 (S.I. 2004/1713), regs. 1, **17** (with reg. 3)
- C14** Ss. 96, 97 applied (with modifications) (24.11.2006) by The Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 (S.I. 2006/2183), **reg. 41**
- C15** Ss. 96, 97 applied (with modifications) (24.11.2006) by The Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 (S.I. 2006/2184), regs. 1(1), **24**
- C16** S. 96 applied (with modifications) (1.1.2007) by The Merchant Shipping (Local Passenger Vessels) (Crew) Regulations 2006 (S.I. 2006/3224), regs. 1, **7(3)**
- C17** S. 96 applied (with modifications) (1.1.2007) by The Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters' Qualifications and Hours of Work) Regulations 2006 (S.I. 2006/3223), regs. 1(b), **26(3)**
- C18** S. 96 applied (with modifications) (24.11.2011) by The Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601), regs. 1(2), **14(2)**

## **97 Compensation in connection with invalid detention of ship.**

- (1) If on a reference under section 96 relating to a detention notice in relation to a ship—
- (a) the arbitrator decides that any matter did not constitute a valid basis for the relevant inspector's opinion, and
  - (b) it appears to him that there were no reasonable grounds for the inspector to form that opinion,
- the arbitrator may award the owner of the ship such compensation in respect of any loss suffered by him in consequence of the detention of the ship as the arbitrator thinks fit.
- (2) Any compensation awarded under this section shall be payable by the Secretary of State.

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(3) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter.

(4) In this section “relevant inspector” has the same meaning as in section 95.

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

- C14** Ss. 96, 97 applied (with modifications) (24.11.2006) by [The Merchant Shipping and Fishing Vessels \(Provision and Use of Work Equipment\) Regulations 2006 \(S.I. 2006/2183\)](#), **reg. 41**
- C15** Ss. 96, 97 applied (with modifications) (24.11.2006) by [The Merchant Shipping and Fishing Vessels \(Lifting Operations and Lifting Equipment\) Regulations 2006 \(S.I. 2006/2184\)](#), **regs. 1(1), 24**
- C19** S. 97 applied (31.3.1998) by [S.I. 1997/2962](#), **reg. 30**  
S. 97 applied (30.10.1998) by [S.I. 1998/2411](#), **reg. 16**  
S. 97 applied (31.12.1998) by [S.I. 1998/2857](#), **reg. 13**  
S. 97 applied (25.10.1999) by [S.I. 1999/2205](#), **reg. 17**  
S. 97 applied (with modifications) (1.11.2001) by [S.I. 2001/3209](#), **reg. 9(8)**  
S. 97 applied (with modifications) (15.2.2002) by [S.I. 2001/3444](#), **reg. 13**  
S. 97 applied (with modifications) (23.11.2002) by [S.I. 2002/2201](#), **reg. 12**  
S. 97 applied (with modifications) (1.9.2002) by [S.I. 2002/2055](#), **reg. 16**
- C20** S. 97 applied (with modifications) (15.7.2003) by [The Merchant Shipping and Fishing Vessels \(Port Waste Reception Facilities\) Regulations 2003 \(S.I. 2003/1809\)](#), **regs. 1(1), 23** (with reg. 3)
- C21** S. 97 applied (with modifications) (16.8.2004) by [The Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004 \(S.I. 2004/1713\)](#), **regs. 1, 17** (with reg. 3)
- C22** S. 97 applied (1.1.2007) by [The Merchant Shipping \(Local Passenger Vessels\) \(Crew\) Regulations 2006 \(S.I. 2006/3224\)](#), **regs. 1, 7(3)**
- C23** S. 97 applied (1.1.2007) by [The Merchant Shipping \(Inland Waterway and Limited Coastal Operations\) \(Boatmasters’ Qualifications and Hours of Work\) Regulations 2006 \(S.I. 2006/3223\)](#), **regs. 1(b), 26(3)**
- C24** S. 97 applied (with modifications) (24.11.2011) by [The Merchant Shipping \(Port State Control\) Regulations 2011 \(S.I. 2011/2601\)](#), **regs. 1(2), 14(3)**
- C25** S. 97 applied (with modifications) (7.9.2002) by [S.I. 2002/2125](#), **reg. 18(1)(2)** (as amended (17.3.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Hours of Work\) \(Amendment\) Regulations 2014 \(S.I. 2014/308\)](#)), **regs. 1(2), 2(20)(b)**
- C26** S. 97(1) applied (with modifications) (1.1.1996) by [S.I. 1995/3128](#), **reg. 10(3)**

**98 Owner and master liable in respect of dangerously unsafe ship.**

(1) If a ship which—

- (a) is in a port in the United Kingdom, or
- (b) is a United Kingdom ship and is in any other port,

is dangerously unsafe, then, subject to subsections (4) and (5) below, the master and the owner of the ship shall each be guilty of an offence.

(2) Where, at the time when a ship is dangerously unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either—

- (a) directly, under the terms of a charter-party or management agreement made with the owner, or
- (b) indirectly, under the terms of a series of charter-parties or management agreements,

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the reference to the owner in subsection (1) above shall be construed as a reference to that other person or (as the case may be) to each of those other persons.

- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to [<sup>F60</sup>a fine not exceeding £50,000][<sup>F60</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (4) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence—
- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge (or, in Scotland, which are libelled in the complaint, petition or indictment); or
  - (b) it was reasonable for such arrangements not to have been made.
- (5) It shall also be a defence in proceedings for an offence under this section to prove—
- (a) that, under the terms of one or more charter-parties or management agreements entered into by the accused, the relevant responsibilities, namely—
    - (i) where the accused is the owner, his responsibilities with respect to the matters relevant to the ship's safety, or
    - (ii) where the accused is liable to proceedings under this section by virtue of subsection (2) above, so much of those responsibilities as had been assumed by him as mentioned in that subsection,
 had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and
  - (b) that in all the circumstances of the case the accused had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a) above;
- and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subsection (6) below.
- (6) Those matters are—
- (a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and
  - (b) the extent to which the accused was or was not able, under the terms of any such charter-party or management agreement as is mentioned in subsection (5) (a) above—
    - (i) to terminate it, or
    - (ii) to intervene in the management of the ship,
 in the event of any such deficiency, and whether it was reasonable for the accused to place himself in that position.
- (7) No proceedings for an offence under this section shall be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;



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- (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (8) In this section—
- “management agreement”, in relation to a ship, means any agreement (other than a charter-party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person); and
- “relevant responsibilities” shall be construed in accordance with subsection (5) above.
- (9) References in this section to responsibilities being assumed by a person under the terms of a charter-party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter-party or management agreement providing for them to be assumed by some other person.

#### Textual Amendments

**F60** Words in s. 98(3) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(5\)](#) (with reg. 5(1))

### 99 Use of unsafe lighters, etc.

- (1) If any person uses or causes or permits to be used in navigation any lighter, barge or like vessel when, because of—
- (a) the defective condition of its hull or equipment,
- (b) overloading or improper loading, or
- (c) undermanning,
- it is so unsafe that human life is thereby endangered, he shall be liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum;
- (ii) on conviction on indictment, to a fine.
- (2) Proceedings for an offence under this section shall not be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State; or
- (b) in Northern Ireland, except by or with the consent of the Secretary of State.
- (3) This section does not affect the liability of the owners of any lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried in the vessel.

### 100 Owner liable for unsafe operation of ship.

- (1) It shall be the duty of the owner of a ship to which this section applies to take all reasonable steps to secure that the ship is operated in a safe manner.
- (2) This section applies to—
- (a) any United Kingdom ship; and
- (b) any ship which—

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- (i) is registered under the law of any country outside the United Kingdom, and
  - (ii) is within United Kingdom waters while proceeding to or from a port in the United Kingdom,
- unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.
- (3) If the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (1) above, he shall be liable—
- (a) on summary conviction, to [<sup>F61</sup>a fine not exceeding £50,000][<sup>F61</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (4) Where any such ship—
- (a) is chartered by demise, or
  - (b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 98,
- any reference to the owner of the ship in subsection (1) or (3) above shall be construed as including a reference—
- (i) to the charterer under the charter by demise, or
  - (ii) to any such manager as is referred to in paragraph (b) above, or
  - (iii) (if the ship is both chartered and managed as mentioned above) to both the charterer and any such manager,
- and accordingly the reference in subsection (1) above to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.
- (5) No proceedings for an offence under this section shall be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

#### Textual Amendments

**F61** Words in s. 100(3)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(6\)](#) (with reg. 5(1))

*[<sup>F62</sup> Temporary exclusion zones*

#### Textual Amendments

**F62** Ss. 100A, 100B and crossheading inserted (23.3.1997) by [1997 c. 28, s. 1](#); [S.I. 1997/1082](#), art.2, [Sch.](#)

#### <sup>F63</sup>100A Power to establish temporary exclusion zones.

- (1) Subsection (2) below applies where a ship, structure or other thing—

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- (a) is in United Kingdom waters or a part of the sea specified by virtue of section 129(2)(b); and
  - (b) is wrecked, damaged or in distress;
- and in this section and section 100B “the relevant casualty” means that ship, structure or other thing.
- (2) If it appears to the Secretary of State—
- (a) that significant harm will or may occur as a direct or indirect result of the relevant casualty being wrecked, damaged or in distress, and
  - (b) that if access to an area around the relevant casualty were restricted in accordance with section 100B, significant harm, or the risk of such harm, would be prevented or reduced,
- he may by direction identify an area to which access is so restricted (“a temporary exclusion zone”).
- (3) In this section “significant harm” means—
- (a) significant pollution in the United Kingdom, in United Kingdom waters or in a part of the sea specified by virtue of section 129(2)(b); or
  - (b) significant damage to persons or property.
- (4) A temporary exclusion zone may not include any area which is neither within United Kingdom waters nor within a part of the sea specified by virtue of section 129(2)(b).
- (5) If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is larger than is needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction vary the direction establishing the zone accordingly.
- (6) Subject to subsections (4) and (5) above, a temporary exclusion zone may be identified by reference to the position of the relevant casualty from time to time.
- (7) If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is not needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction revoke the direction establishing the zone.
- (8) Where the Secretary of State gives a direction under this section, he shall—
- (a) as soon as practicable, publish it in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it; and
  - (b) within the period of 24 hours from the giving of the direction, send a copy of it to the International Maritime Organization.
- (9) Subsection (2) above does not apply where an order under section 2 of the <sup>M12</sup>Protection of Wrecks Act 1973 has effect in relation to the relevant casualty.

**Textual Amendments**

**F63** Ss. 100A, 100B inserted (23.3.1997) by 1997 c. 28, s. 1; S.I. 1997/1082, art. 2, Sch.

**Marginal Citations**

**M12** 1973 c. 33.

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#### <sup>F64</sup>100B Temporary exclusion zones: offences

- (1) If a direction establishing a temporary exclusion zone contains a statement of a description mentioned in subsection (2) below, then, subject to subsection (4) below, no ship shall enter or remain in the zone.
- (2) The statement is one to the effect that the direction is given for the purpose of preventing or reducing significant pollution, or the risk of significant pollution, in the United Kingdom, in United Kingdom waters or in a part of the sea specified by virtue of section 129(2)(b).
- (3) If a direction establishing a temporary exclusion zone does not contain a statement of a description mentioned in subsection (2) above, then, subject to subsections (4) and (5) below—
  - (a) no ship shall enter or remain in any part of the zone that is in United Kingdom waters; and
  - (b) no United Kingdom ship shall enter or remain in any part of the zone that is in a part of the sea specified by virtue of section 129(2)(b).
- (4) A ship may enter or remain in a temporary exclusion zone or a part of such a zone if it does so—
  - (a) in accordance with the direction establishing the zone;
  - (b) with the consent of the Secretary of State; or
  - (c) in accordance with regulations made by the Secretary of State for the purposes of this section.
- (5) A qualifying foreign ship may enter a temporary exclusion zone or a part of such a zone if in doing so it is exercising the right of transit passage through straits used for international navigation.
- (6) If a ship enters or remains in a temporary exclusion zone or a part of such a zone in contravention of subsection (1) or (3) above then, subject to subsection (7) below, its owner and its master shall each be guilty of an offence and liable—
  - (a) on summary conviction, to [<sup>F65</sup>a fine not exceeding £50,000][<sup>F65</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (7) It shall be a defence for a person charged with an offence under this section to prove that the existence or area of the temporary exclusion zone was not, and would not on reasonable enquiry have become, known to the master.]

#### Textual Amendments

**F64** Ss. 100A, 100B inserted (23.3.1997) by 1997 c. 28, s. 1; S.I. 1997/1082, art. 2, Sch.

**F65** Words in s. 100B(6)(a) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), Sch. 4 para. 27(7) (with reg. 5(1))

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<sup>F66</sup>[ *Power to require ships to be moved*]

**Textual Amendments**

**F66** Ss. 100C-100E and crossheading inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, **Sch.**

<sup>F67F68</sup>**100C Power to require ships to be moved.**

**Textual Amendments**

**F67** Ss. 100C-100E repealed (10.9.2003) by Marine Safety Act 2003 (c. 16), s. 4, Sch. 2 para. 2(a), **Sch. 3**

**F68** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, **Sch.**

<sup>F67F69</sup>**100D Offences in relation to section 100C.**

**Textual Amendments**

**F67** Ss. 100C-100E repealed (10.9.2003) by Marine Safety Act 2003 (c. 16), s. 4, Sch. 2 para. 2(a), **Sch. 3**

**F69** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, **Sch.**

<sup>F67F70</sup>**100E Service of directions under section 100C.**

**Textual Amendments**

**F67** Ss. 100C-100E repealed (10.9.2003) by Marine Safety Act 2003 (c. 16), s. 4, Sch. 2 para. 2(a), **Sch. 3**

**F70** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, **Sch.**

<sup>F71</sup>**100F Requirements to be met by ships in respect of which trans-shipment licences in force.**

- (1) In this section and section 100G “trans-shipment licence” means a licence under section 4A of the <sup>M13</sup>Sea Fish Conservation Act 1967 (prohibition of trans-shipment of fish unless authorised by a licence).
- (2) The Secretary of State may, for all or any of the purposes specified in subsection (3) below, by regulations prescribe requirements to be met by ships in respect of which trans-shipment licences are in force.
- (3) Those purposes are—
  - (a) the purpose of securing the safety of ships in respect of which trans-shipment licences are in force and persons on them,
  - (b) the purpose of protecting the health of persons on such ships,
  - (c) the purpose of securing the safety of any other persons or property, and

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- (d) the purpose of preventing or reducing pollution.
- (4) The matters with respect to which requirements may be prescribed under subsection (2) above include, in particular, the construction and equipment of ships, the manning of ships, and operational matters.
- (5) Without prejudice to the generality of subsection (2) above, regulations under that subsection may apply in relation to a ship in respect of which a trans-shipment licence is in force any requirements contained in—
- (a) safety regulations,
  - (b) regulations under section 128, or
  - (c) any international agreement,
- whether or not those requirements would otherwise apply in relation to that ship.]

#### Textual Amendments

**F71** Ss. 100F-100G inserted (19.3.1997) by 1997 c. 28, ss. 11, 31(4)

#### Marginal Citations

**M13** 1967 c. 84.

#### <sup>F72</sup>**100G Failure to comply with prescribed standards in respect of ship in respect of which trans-shipment licence is in force.**

- (1) If it appears to the Secretary of State that any requirement of regulations under section 100F(2) or regulations under section 192A is being contravened in respect of a ship in respect of which a trans-shipment licence is in force, he may serve on the master a notice under subsection (2) below.
- (2) A notice under this subsection must specify the contravention by reason of which it is given and must—
  - (a) prohibit the receiving by the ship of fish trans-shipped from another ship,
  - (b) prohibit the processing of fish on the ship, or
  - (c) prohibit both such receiving and such processing.
- (3) The Secretary of State shall revoke a notice under subsection (2) above if he is satisfied that the contravention specified in it has been remedied.
- (4) If a trans-shipment licence ceases to be in force in respect of a ship to which a notice under subsection (2) above relates, the notice is revoked by virtue of this subsection.
- (5) If without reasonable excuse the master of a ship causes or permits any prohibition imposed by a notice under subsection (2) above to be contravened in respect of the ship, he shall be liable—
  - (a) on summary conviction, to [<sup>F73</sup>a fine not exceeding £50,000][<sup>F73</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (6) The obligation imposed by regulations under section 100F(2) shall not be enforceable except in accordance with this section, but this subsection does not limit the powers conferred by section 258.

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### Textual Amendments

- F72** Ss. 100F-100G inserted (19.3.1997) by 1997 c. 28, ss. 11, 31(4)
- F73** Words in s. 100G(5)(a) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), Sch. 4 para. 27(8) (with reg. 5(1))

### *Control of, and returns as to, persons on ships*

## **101 Offences in connection with passenger ships.**

- (1) A person commits an offence if, in relation to a ship to which this section applies, he does any of the following things, that is to say—
- (a) if, being drunk or disorderly, he has been on that account refused admission to the ship by the owner or any person in his employment, and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;
  - (b) if, being drunk or disorderly on board the ship, he is requested by the owner or any person in his employment to leave the ship at any place in the United Kingdom at which he can conveniently do so, and, after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request;
  - (c) if, on board the ship, after warning by the master or other officer thereof, he molests or continues to molest any passenger;
  - (d) if, after having been refused admission to the ship by the owner or any person in his employment on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, he nevertheless persists in attempting to enter the ship;
  - (e) if, having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in his employment to leave the ship before it has left that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, he does not comply with that request;
  - (f) if, on arriving in the ship at a point to which he has paid his fare, he knowingly and intentionally refuses or neglects to leave the ship; and
  - (g) if, on board the ship he fails, when requested by the master or other officer thereof, either to pay his fare or show such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the ship;
- but his liability in respect of any such offence shall not prejudice the recovery of any fare payable by him.
- (2) A person commits an offence if, on board any ship to which this section applies he intentionally does or causes to be done anything in such a manner as to—
- (a) obstruct or damage any part of the machinery or equipment of the ship, or
  - (b) obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.

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- (3) The master or other officer of any ship to which this section applies, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against subsection (1) or (2) above and whose name and address are unknown to the master or officer, and deliver that person to a constable.
- (4) A person guilty of an offence against subsection (1) or (2) above shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (5) If any person commits an offence against subsection (1) or (2) above and on the application of the master of the ship, or any other person in the employment of the owner thereof, refuses to give his name and address, or gives a false name or address, that person shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (6) This section applies to a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by safety regulations.

#### **102 Power to exclude drunken passengers from certain passenger ships.**

- (1) The master of any ship to which this section applies may refuse to receive on board any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient place.
- (2) A person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.
- (3) This section applies to a ship (whether or not a United Kingdom ship) carrying more than 12 passengers and employed in carrying passengers between places in the limited European trading area as for the time being defined in regulations made under section 47 by the Secretary of State.

#### **103 Stowaways.**

- (1) If a person, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a United Kingdom ship, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Nothing in section 281 shall be taken to limit the jurisdiction of any court in the United Kingdom to deal with an offence under this section which has been committed in a country outside the United Kingdom by a person who is not a British citizen.

#### **104 Unauthorised presence on board ship.**

Where a United Kingdom ship or a ship registered in any other country is in a port in the United Kingdom and a person who is neither in Her Majesty's service nor authorised by law to do so—

- (a) goes on board the ship without the consent of the master or of any other persons authorised to give it; or
- (b) remains on board the ship after being requested to leave by the master, a constable, an officer authorised by the Secretary of State or an officer of customs and excise,



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he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **105 Master’s power of arrest.**

The master of any United Kingdom ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

#### **106 Unauthorised persons: offences relating to safety.**

- (1) Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship in pursuance of section 73(5)(b), sections 58 and 59 shall apply as if he were a seaman employed in the ship.
- (2) Subsection (1) above shall, in its application to section 58 so far as that section applies to ships which are not sea-going ships have effect—
  - (a) with the omission of the words “goes to sea in a ship”; and
  - (b) with the insertion, after the words “to give it”, of the words “ is on board a ship while it is on a voyage or excursion ”.
- (3) This section does not apply to fishing vessels.

#### **107 Return to be furnished by masters of ships as to passengers.**

- (1) The master of every ship, whether or not a United Kingdom ship, which carries any passenger to a place in the United Kingdom from any place out of the United Kingdom, or from any place in the United Kingdom to any place out of the United Kingdom, shall furnish to such person and in such manner as the Secretary of State directs a return giving the total number of any passengers so carried, distinguishing, if so directed by the Secretary of State, the total number of any class of passengers so carried, and giving, if the Secretary of State so directs, such particulars with respect to passengers as may be for the time being required by the Secretary of State.
- (2) Any passenger shall furnish the master of the ship with any information required by him for the purpose of the return.
- (3) If—
  - (a) the master of a ship fails to make a return as required by this section, or makes a false return,
  - (b) any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or, for that purpose, gives to the master information which he knows to be false or recklessly gives to him information which is false,

the master or (as the case may be) passenger shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale in the case of a failure or refusal and level 3 on the standard scale in the case of a false return or false information.

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## 108 Returns of births and deaths in ships, etc.

- (1) The Secretary of State may make regulations under the following provisions of this section in relation to births and deaths in the circumstances specified in those provisions.
- (2) Regulations under this section may require the master of any United Kingdom ship to make a return to a superintendent or proper officer of—
  - (a) the birth or death of any person occurring in the ship; and
  - (b) the death of any person employed in the ship, wherever occurring outside the United Kingdom;
 and to notify any such death to such person (if any) as the deceased may have named to him as his next of kin.
- (3) Regulations under this section may require the master of any ship not registered in the United Kingdom which calls at a port in the United Kingdom in the course of or at the end of a voyage to make a return to a superintendent of any birth or death of a British citizen, a British Dependent Territories citizen or a British Overseas citizen which has occurred in the ship during the voyage.
- (4) The returns referred to in subsections (2) and (3) above shall be for transmission to the Registrar General of Shipping and Seamen.
- (5) Regulations under this section may require the Registrar General of Shipping and Seamen to record such information as may be specified in the regulations about such a death as is referred to in subsection (2) above in a case where—
  - (a) it appears to him that the master of the ship cannot perform his duty under that subsection because he has himself died or is incapacitated or missing; and
  - (b) any of the circumstances specified in subsection (6) below exist.
- (6) Those circumstances are that—
  - (a) the death in question has been the subject of—
    - (i) an inquest held by a coroner,
    - (ii) an inquiry held in pursuance of section 271, or
    - (iii) an inquiry held in pursuance of the <sup>M14</sup>Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976;
 and the findings of the inquest or inquiry include a finding that the death occurred;
  - (b) the deceased's body has been the subject of—
    - (i) a post-mortem examination in England and Wales, or
    - (ii) a preliminary investigation in Northern Ireland;
 and in consequence the coroner [<sup>F74</sup>discontinues an investigation under Part 1 of the Coroners and Justice Act 2009 or, as the case may be, is satisfied that an inquest under the Coroners Act (Northern Ireland) 1959 is unnecessary]; or
  - (c) in Scotland, it does not appear to the Lord Advocate, under section 1(1)(b) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, to be expedient in the public interest that an inquiry under that Act should be held.
- (7) Regulations under this section may require the Registrar General of Shipping and Seamen to send a certified copy of any return or record made thereunder to the Registrar General for England and Wales, the Registrar General of Births, Deaths and

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Marriages for Scotland or the Registrar General for Northern Ireland, as the case may require.

- (8) The Registrar General to whom any such certified copies are sent—
- (a) shall record the information contained therein in the marine register; and
  - (b) may record in the marine register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register;
- and the enactments relating to the registration of births and deaths in England, Scotland and Northern Ireland shall have effect as if the marine register were a register of births (other than stillbirths) or deaths or certified copies of entries in such a register had been transmitted to the Registrar General in accordance with those enactments.
- (9) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (10) Regulations under this section may contain provisions authorising the registration of the following births and deaths occurring outside the United Kingdom in circumstances where no return is required to be made under the preceding provisions of this section—
- (a) any birth or death of a British citizen, a British Dependent Territories citizen or a British Overseas citizen which occurs in a ship not registered in the United Kingdom;
  - (b) any death of any such citizen who has been employed in a ship not registered in the United Kingdom which occurs elsewhere than in the ship; and
  - (c) any death of a person who has been employed in a United Kingdom ship which occurs elsewhere than in the ship.
- (11) References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.

#### Textual Amendments

**F74** Words in s. 108(6)(b) substituted (25.7.2013) by [Coroners and Justice Act 2009 \(c. 25\), s. 182\(4\)\(e\), Sch. 21 para. 33](#) (with s. 180); S.I. 2013/1869, art. 2(o)(xv)

#### Marginal Citations

**M14** 1976 c. 14

### [<sup>F75</sup>108A Safety directions

- (1) Schedule 3A (safety directions) shall have effect.
- (2) A provision made by or by virtue of this Act (including one which creates an offence) shall have no effect in so far as it—
  - (a) is inconsistent with the exercise by or on behalf of the Secretary of State of a power under Schedule 3A (safety directions),
  - (b) would interfere with a person's compliance with a direction under that Schedule, or
  - (c) would interfere with action taken by virtue of that Schedule.]

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### Textual Amendments

**F75** S. 108A inserted (10.9.2003) by [Marine Safety Act 2003 \(c. 16\)](#), **ss. 1(1)**, 4

## PART V

### FISHING VESSELS

#### CHAPTER I

##### SKIPPER AND SEAMEN

#### *Engagement and discharge of crews*

#### **109 Regulations relating to crew agreements.**

- (1) The Secretary of State may make regulations prescribing the procedure to be followed in connection with the making of crew agreements between persons employed in United Kingdom fishing vessels and persons employing them and prescribing the places where such crew agreements are to be made or where an agreement with any person may be added to those contained in such a crew agreement.
- (2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

#### *Wages*

#### **110 Payments of seamen's wages.**

Except as provided by or under Part III or any other enactment, the wages due to a seaman under a crew agreement relating to a United Kingdom fishing vessel shall be paid to him in full.

PROSPECTIVE

#### **111 Regulations relating to wages: deductions.**

The power to make regulations conferred by section 32 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 under section 60.

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#### Commencement Information

**I4** S. 111 not in force at Royal Assent see s. 134, Sch. 14 para. 5

### 112 Accounts of wages and catch.

- (1) Subject to regulations made under section 32 or 73, the persons employing any seaman under a crew agreement relating to a United Kingdom fishing vessel shall deliver to him at a time prescribed by regulations under this section an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.
- (2) Where the wages of any person employed in a United Kingdom fishing vessel are in any manner related to the catch the persons employing him shall at a time prescribed by regulations under this section deliver to the master an account (or, if the master is the person employing him, make out an account) showing how those wages (or any part thereof related to the catch) are arrived at and shall make the account available to the crew in such manner as may be prescribed by the regulations.
- (3) Where there is a partnership between the master and any members of the crew of a United Kingdom fishing vessel the owner of the vessel shall at a time prescribed by regulations under this section make out an account showing the sums due to each partner in respect of his share and shall make the account available to the partners.
- (4) The Secretary of State may make regulations prescribing the time at which any account required by this section is to be delivered or made out and the manner in which the account required by subsections (2) and (3) above is to be made available.
- (5) If a person fails without reasonable excuse to comply with the preceding provisions of this section he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### 113 Restriction on assignment of and charge upon wages.

- (1) Nothing in section 34 shall affect the operation of—
  - (a) the <sup>M15</sup>Attachment of Earnings Act 1971, or
  - (b) without prejudice to Article 97(2) of the <sup>M16</sup>Judgments Enforcement (Northern Ireland) Order 1981, Articles 73 to 79 and 97 to 105 of that Order,in relation to wages due to a person employed in a fishing vessel.
- (2) The provisions of the <sup>M17</sup>Magistrates' Courts (Northern Ireland) Order 1981 and the Judgments Enforcement (Northern Ireland) Order 1981 relating to the attachment of wages shall apply in relation to wages due to a person employed in a fishing vessel as they apply in relation to other wages.

#### Marginal Citations

**M15** 1971 c. 32.

**M16** S.I. 1981/226 (NI 6).

**M17** S.I. 1981/1675 (NI 26).

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#### **114 Right, or loss of right, to wages in certain circumstances.**

Section 38 does not apply to so much of the wages of a seaman employed in a fishing vessel as is in any manner related to the catch.

PROSPECTIVE

#### *Safety, health and welfare*

#### **115 Hours of work.**

- (1) The Secretary of State may make regulations prescribing maximum periods of duty and minimum periods of rest for seamen employed in United Kingdom fishing vessels, and such regulations may make different provision for different descriptions of fishing vessels or seamen employed in them or for fishing vessels and seamen of the same description in different circumstances.
- (2) If any provision of regulations made under this section is contravened in the case of any seaman employed in a fishing vessel the persons employing him and the master shall each be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **Commencement Information**

**I5** S. 115 not in force at Royal Assent see s. 134, Sch. 14 para. 5

#### *Manning and qualifications*

#### **116 Production of crew certificates and other documents of qualification.**

- (1) Any person serving or engaged to serve in a United Kingdom fishing vessel and holding any certificate or other document which is evidence that he is qualified for the purposes of section 47 shall on demand produce it to any person who is a British sea-fishery officer for the purposes of the Sea Fisheries Acts.
- (2) If a person fails without reasonable excuse to produce on demand any such certificate or other document he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this section the “Sea Fisheries Acts” means any enactment for the time being in force relating to sea fishing, including any enactment relating to fishing for shellfish, salmon or migratory trout.

#### **Commencement Information**

**I6** S. 116 wholly in force; s. 116 not in force at Royal Assent see s. 314, Sch. 14 para. 5; s. 116 in force at 1.2.1998 by [S.I. 1997/3107](#), [art. 2](#)

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## Offences by seamen

### <sup>F76</sup>117 Drunkenness on duty.

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#### Textual Amendments

**F76** S. 117 repealed (30.3.2004) by Railways and Transport Safety Act 2003 (c. 20), s. 87, Sch. 8; S.I. 2004/827, art. 3(j)(j)

PROSPECTIVE

### 118 Unauthorised liquor.

- (1) A person who, in the United Kingdom or elsewhere—
  - (a) takes any unauthorised liquor on board a United Kingdom fishing vessel;
  - (b) has any unauthorised liquor in his possession on board such a vessel;
  - (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) intentionally obstructs another person in the exercise of powers conferred on the other person by subsection (5) below,shall, subject to subsections (3) and (4) below, be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (3) It shall be a defence in proceedings for an offence under subsection (1)(a) or (b) above 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.
- (4) It shall be a defence in proceedings for an offence under subsection (1)(c) above to prove 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.
- (5) If an authorised person has reason to believe that an offence under subsection (1)(a) or (b) above 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.

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(6) 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) a superintendent;
- (b) a proper officer;
- (c) a person appointed in pursuance of section 258(1)(c);
- (d) the master of the vessel in question;
- (e) the owner of the vessel in question;
- (f) any person instructed by the master or owner to prevent the commission of offences under subsection (1) above 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 owner of the vessel to give such permission.

(7) Any reference in subsection (6) above to the owner of a vessel shall be construed—

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

**Commencement Information**

I7 S. 118 not in force at Royal Assent see s. 314, Sch. 14 para. 5

**119 Disciplinary offences.**

(1) Section 59(1)(a) and (b) shall not apply to fishing vessels and persons serving in them.

(2) In relation to United Kingdom fishing vessels, section 60 shall have effect with the substitution for subsection (2) of the following—

(2) Regulations may provide for the hearing on shore in the United Kingdom, by a disciplinary body, of a complaint by the master or owner of such a fishing vessel against a seaman alleging that during his employment in the vessel, the seaman contravened a local industrial agreement relating to his employment on the vessel and for requiring the disciplinary body to have regard to the agreement in determining whether the allegation is proved.

The alleged contravention may be one on or off the ship and in the United Kingdom or elsewhere.

(3) Regulations under section 60 may include provision authorising persons to determine, for the purposes of that section in its application to United Kingdom fishing vessels 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.



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### Commencement Information

**18** S. 119 partly in force; s. 119(1) in force at 1.1.1996, see ss. 314, 316(2), Sch. 14 para. 5

## Exemptions

### 120 Power to grant exemptions from this Chapter.

The Secretary of State may grant exemptions from any requirements of Part III or this Chapter or of any regulations made thereunder—

- (a) with respect to any fishing vessel or to a fishing vessel of any description; or
- (b) with respect to any person or a person of any description serving in a fishing vessel or in a fishing vessel of any description;

and nothing in any other provision of Part III or this Chapter conferring a power to provide for or grant exemptions shall be taken to restrict the power conferred by this section.

## CHAPTER II

### SAFETY

### 121 Fishing vessel construction rules.

- (1) The Secretary of State may make rules (in this Chapter referred to as “fishing vessel construction rules”) prescribing requirements for the hull, equipment and machinery of United Kingdom fishing vessels of any description (including any description framed by reference to the areas in which the vessels operate or the dates on which they were first registered in the United Kingdom or on which their construction was begun).
- (2) The Secretary of State may exempt any fishing vessel or description of fishing vessel from any requirement of the fishing vessel construction rules.
- (3) He may do so generally or for a specified time or with respect to a specified voyage or to voyages in a specified area, and may do so subject to any specified conditions.
- (4) A surveyor of ships may inspect any fishing vessel for the purpose of seeing that it complies with the fishing vessel construction rules.
- (5) If—
  - (a) the fishing vessel construction rules are contravened with respect to any vessel; or
  - (b) a vessel is, under subsection (2) above, exempted from any requirement subject to a condition and the condition is not complied with;the owner or master of the vessel shall be liable —
  - (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to a fine.

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## 122 Fishing vessel survey rules.

- (1) The Secretary of State may make rules (in this Chapter referred to as “fishing vessel survey rules”) for the surveying and periodical inspection of United Kingdom fishing vessels or any description of such fishing vessels, for the purpose of ensuring their compliance with the requirements of the fishing vessel construction and equipment provisions.
- (2) In this Chapter “the fishing vessel construction and equipment provisions” means fishing vessel construction rules and rules or safety regulations relating to life-saving, radio and navigational equipment for fishing vessels.

## 123 Fishing vessel certificates.

- (1) If the Secretary of State or any person authorised by him for the purpose is satisfied, on receipt of a declaration of survey in respect of a fishing vessel surveyed under the fishing vessel survey rules, that the vessel complies with such of the requirements of the fishing vessel construction and equipment provisions as are or will be applicable to the vessel, then, subject to subsection (2) below, the Secretary of State or person shall, on the application of the owner, issue a certificate (in this and the following sections referred to as a “fishing vessel certificate”) showing that the vessel complies with those requirements; and for this purpose any requirement from which the vessel has been exempted under section 121(2) or any other provision of this Act shall be deemed not to be applicable to it.
- (2) Fishing vessel survey rules may require, in the case of such fishing vessel certificate as may be specified in the rules, that the Secretary of State or person authorised to issue it shall not issue the certificate unless satisfied that the vessel in respect of which it is to be issued is provided with the lights, shapes and means of making fog signals required by safety regulations for the prevention of collisions.
- (3) A fishing vessel certificate shall be in such form as may be prescribed by the fishing vessel survey rules; and those rules may make provision for the duration, extension or cancellation of any such certificate and for the endorsement on it of information relating to the inspection, in accordance with the rules, of the vessel to which it relates and of any extension of the period for which the certificate was issued.

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### Modifications etc. (not altering text)

C27 S. 123 extended (1.12.1999) by S.I. 1999/2205, reg. 19

## 124 Provisions supplementary to section 123.

- (1) The Secretary of State may require a fishing vessel certificate which has expired or been cancelled, to be delivered up as he directs.
- (2) If the owner or skipper of the fishing vessel fails without reasonable excuse to comply with a requirement made under subsection (1) above, he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) The owner or skipper of a fishing vessel to whom a fishing vessel certificate is issued shall forthwith, on the receipt of the certificate by him (or his agent), cause a copy of it to be put up in some conspicuous place on board the vessel, so as to be legible to

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all persons on board, and to be kept so put up and legible while the certificate remains in force and the vessel is in use.

- (4) If the owner or skipper of a fishing vessel fails without reasonable excuse to comply with subsection (3) above, he shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (5) If any person intentionally makes, or assists in making, or procures to be made, a false or fraudulent fishing vessel certificate he shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (6) In Scotland, if any person—
  - (a) forges, assists in forging or procures to be forged,
  - (b) fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered,any fishing vessel certificate he shall be liable—
  - (i) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
  - (ii) on conviction on indictment, to a fine or to imprisonment or to both.
- (7) A fishing vessel certificate shall be admissible in evidence.

## **125 Prohibition on going to sea without appropriate certificate.**

- (1) No fishing vessel required to be surveyed under the fishing vessel survey rules shall go to sea unless there are in force fishing vessel certificates showing that the vessel complies with such of the requirements of the fishing vessel construction and equipment provisions as are applicable to the vessel.
- (2) If a fishing vessel goes to sea in contravention of subsection (1) above the owner or skipper of the vessel shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (3) The skipper of any United Kingdom fishing vessel shall on demand produce to any officer of customs and excise or of the Secretary of State any certificate required by this Chapter; and [<sup>F77</sup>the fishing vessel, if in United Kingdom waters, may be detained] until the certificate is so produced.

### **Textual Amendments**

**F77** Words in s. 125(3) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 3**; S.I. 1997/1082, art. 2, **Sch.**

## **126 Notice of alterations.**

- (1) Where a fishing vessel certificate is in force in respect of a fishing vessel and—
  - (a) the certificate shows compliance with requirements of the fishing vessel construction rules and an alteration is made in the vessel's hull, equipment

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or machinery which affects the efficiency thereof or the seaworthiness of the vessel; or

- (b) the certificate shows compliance with requirements of the fishing vessel equipment provisions and an alteration is made affecting the efficiency or completeness of the appliances or equipment which the vessel is required to carry by the fishing vessel equipment provisions;

the owner or skipper shall, as soon as possible after the alteration is made, give written notice containing full particulars of it to the Secretary of State or, if the certificate was issued by another person, to that person.

- (2) If the notice required by subsection (1) above is not given as required by that subsection the owner or skipper shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (3) In this section—

“alteration” in relation to anything includes the renewal of any part of it and  
 “the fishing vessel equipment provisions” means the provisions of the fishing vessel construction and equipment provisions other than the fishing vessel construction rules.

PROSPECTIVE

### *Training*

#### **127 Training in safety matters.**

- (1) The Secretary of State may make regulations for securing that the skipper of and every seaman employed or engaged in a United Kingdom fishing vessel is trained in safety matters.
- (2) The regulations may provide that if a person goes to sea on a fishing vessel in contravention of a requirement of the regulations—
- (a) he commits an offence and is liable on summary conviction to a fine not exceeding level 2, or if he is the skipper or an owner of the vessel level 5, on the standard scale; and
- (b) the skipper and each owner of the vessel is (except in respect of a contravention by himself) liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) Regulations under this section may make different provision for different cases, or descriptions of case, including different provisions for different descriptions of vessel or according to the circumstances of operation of a vessel.

#### **Commencement Information**

**19** S. 127 not in force at Royal Assent see s. 314, Sch. 14 para. 5

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## PART VI

### PREVENTION OF POLLUTION

#### CHAPTER I

##### POLLUTION GENERALLY

#### 128 Prevention of pollution from ships etc.

- (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—
- (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes 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) the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (including the Final Act of the Conference and the attached resolutions) signed in London on 30th November 1990;
  - [<sup>F78</sup>(da) the Protocol to amend the Convention for the Prevention of Pollution from Ships signed in London on 26 September 1997 (which added to it Annex VI containing regulations for the prevention of air pollution from ships);]
  - (e) any international agreement not mentioned in paragraphs (a) to [<sup>F79</sup>(da)] above which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships;
- and in paragraph (e) above 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) above.
- (2) The powers conferred by subsection (1) above 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) above, 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 also any of sections 87, 268, 269 and 270;
  - (b) with respect to the carrying out of surveys and inspections for the purpose aforesaid and the issue, duration and recognition of certificates for that purpose;
  - (c) for repealing the provisions of any enactment or instrument so far as it appears to Her Majesty that those provisions are not required having regard to any provision made or proposed to be made by virtue of this section;

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- (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 relevant British possession;
- (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;
- (g) 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 or such less amount as is prescribed by the Order;
- (h) in connection with offences created by or under the Order, corresponding to that made in connection with offences under section 131 by <sup>F80</sup>sections 143(6), 144]and 146 (whether by applying, or making provision for the application of, any of those sections, subject to such modifications as may be specified by or under the Order, or otherwise);
- (i) 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 284 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 neither paragraph (f) nor (g) above shall prejudice paragraph (a) above.

<sup>F81</sup>[(3A) An order under subsection (1) above in pursuance of paragraph (d) of that subsection may include provision imposing on local authorities responsibilities in relation to the preparation, review and implementation of any plans required by the agreement mentioned in that paragraph.]

- (4) An Order under subsection (1) above may—
  - (a) make different provision for different circumstances;
  - (b) make provision in terms of any document which the Secretary of State or any person considers relevant from time to time;
  - (c) provide for exemptions from any provisions of the Order;
  - (d) provide for the delegation of functions exercisable by virtue of the Order;
  - (e) include such incidental, supplemental and transitional provisions as appear to Her Majesty to be expedient for the purposes of the Order;
  - (f) authorise the making of regulations and other instruments for any of the purposes of this section (except the purposes of subsection (3)(a) and (c) above) <sup>F82</sup>. . .; and
  - (g) 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) Where an Order in Council under subsection (1) above authorises the making of regulations for the purpose of giving effect to an agreement mentioned in paragraphs (a) to <sup>F83</sup>(da)] or falling within paragraph (e) of that subsection the Order also authorises the making of regulations for the purpose of giving effect to an agreement which provides for the modification of such an agreement.

This subsection applies in relation to Orders in Council and international agreements whenever made.

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- (6) Regulations made by virtue of paragraph (f) of subsection (4) above may make provision corresponding to the provision authorised for an Order by paragraphs (a) to (e) of subsection (4) above.
- (7) An Order in Council in pursuance of subsection (1)(b) or (e) above may apply to areas of land or sea or other United Kingdom waters notwithstanding that the agreement in question does not relate to those areas.
- (8) A draft of an Order in Council proposed to be made by virtue of subsection (1) above shall not be submitted to Her Majesty in Council unless—
- (a) the draft has been approved by a resolution of each House of Parliament;
  - (b) the Order is to contain a statement that it is made only for any of the purposes specified in subsection (9) below; or
  - (c) the Order extends only to a possession mentioned in subsection (3)(e) above.
- (9) The purposes referred to in subsection (8)(b) above are—
- (a) giving effect to an agreement mentioned in subsection (1)(a) to [F84(da)] above;
  - (b) providing as authorised by subsection (2) above in relation to such an agreement and the purposes of subsection (5) above;
- and a statutory instrument containing an Order which contains a statement that it is made only for any of those purposes shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F78** S. 128(1)(da) inserted (30.3.2006) by Merchant Shipping (Pollution) Act 2006 (c. 8), ss. 2(2), 4
- F79** Word in s. 128(1)(e) substituted (30.3.2006) by Merchant Shipping (Pollution) Act 2006 (c. 8), ss. 2(3), 4
- F80** Words in s. 128(3)(h) substituted (17.7.1997) by 1997 c. 28, s. 29(1), Sch. 6 para. 3(2); S.I. 1997/1539, art. 2, Sch.
- F81** S. 128(3A) inserted (19.3.1997) by 1997 c. 28, ss. 12, 31(4)
- F82** Words in s. 128(4)(f) repealed (17.7.1997) by 1997 c. 28, s. 29(1)(2), Sch. 6 para. 3(3), Sch. 7 Pt. I; S.I. 1997/1539, art. 2, Sch.
- F83** Word in s. 128(5) substituted (30.3.2006) by Merchant Shipping (Pollution) Act 2006 (c. 8), ss. 2(3), 4
- F84** Word in s. 128(9)(a) substituted (30.3.2006) by Merchant Shipping (Pollution) Act 2006 (c. 8), ss. 2(3), 4

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

- C28** S. 128(1)(e) applied (1.3.2005) by The Merchant Shipping (Prevention of Pollution) (Drilling Rigs and Other Platforms) Order 2005 (S.I. 2005/74), arts. 1, 2

### 129 Further provision for prevention of pollution from ships.

- (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) above, an Order under that subsection may in particular include provision—

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- (a) corresponding to any provision that is authorised for the purposes of section 128 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 <sup>M18</sup>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 (f) of the said subsection (4).

- (3) A draft of an Order in Council proposed to be made by virtue of subsection (1) above shall not be submitted to Her Majesty in Council unless the draft has been approved by resolution of each House of Parliament.

**Marginal Citations**

**M18** 1964 c. 29.

**130 Regulation of transfers between ships in territorial waters.**

- (1) The Secretary of State may by regulations make, in relation to the transfer of cargo, stores, bunker fuel or ballast between ships while within United Kingdom waters, such provision as he considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.
- (2) Regulations under this section may, in particular, do any of the following things—
  - (a) prohibit transfers of any specified description or prohibit transfers if, or unless, carried out in specified areas, circumstances or ways;
  - (b) make provision about—
    - (i) the design of, and standards to be met by, ships and equipment,
    - (ii) the manning of ships, including the qualifications and experience to be possessed by persons of any specified description employed on board, and
    - (iii) the qualifications and experience to be possessed by persons (whether masters or not) controlling the carrying out of transfers or operations ancillary thereto;
  - (c) provide for proposed transfers to be notified to and approved by persons appointed by the Secretary of State or another person, and for the supervision of transfers, and the inspection of ships and equipment, by persons so appointed;
  - (d) provide—
    - (i) for the procedure to be followed in relation to the approval of transfers to be such as may be prescribed by any document specified in the regulations, and
    - (ii) for references in the regulations to any document so specified to operate as references to that document as revised or re-issued from time to time;
  - (e) provide for the making and keeping of records about ships and equipment, the issuing of certificates, and the furnishing of information;



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- (f) provide for the granting by the Secretary of State or another person of exemptions from specified provisions of the regulations, on such terms (if any) as the Secretary of State or that other person may specify, and for altering or cancelling exemptions;
  - (g) limit any provision of the regulations to specified cases or kinds of case.
- (3) Regulations under this section may provide—
- (a) that a contravention of the regulations shall be an offence punishable on summary conviction by [<sup>F85</sup>a fine not exceeding £25,000][<sup>F85</sup>a fine, the amount of which may be limited by the regulations,] and on conviction on indictment by imprisonment for a term not exceeding two years or a fine or both;
  - (b) that any such contravention shall be an offence punishable only on summary conviction by [<sup>F86</sup>a fine not exceeding £25,000][<sup>F86</sup>a fine, the amount of which may be limited by the regulations;] or such lower amount as is prescribed by the regulations;
  - (c) 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 (a) or (b) above.
- (4) Regulations under this section may—
- (a) make different provision for different classes or descriptions of ships and for different circumstances; and
  - (b) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient.

#### Textual Amendments

- F85** Words in s. 130(a) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 88(a)** (with reg. 5(2))
- F86** Words in s. 130(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 88(b)** (with reg. 5(2))

## <sup>F87</sup>[CHAPTER IA

### WASTE RECEPTION FACILITIES AT HARBOURS

#### Textual Amendments

- F87** Pt. VI Ch. IA (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

#### <sup>F88</sup>130A General.

- (1) The Secretary of State may by regulations make such provision as he considers appropriate in relation to—
- (a) the provision at harbours in the United Kingdom of facilities for the reception of waste from ships (in this Chapter referred to as “waste reception facilities”); and

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- (b) the use of waste reception facilities provided at such harbours.
- (2) In making the regulations, the Secretary of State shall take into account the need to give effect to provisions—
  - (a) which are contained in any international agreement mentioned in section 128(1) which has been ratified by the United Kingdom; and
  - (b) which relate to waste reception facilities.
- (3) Sections 130B to 130D make further provision with respect to the regulations that may be made under this section.

#### **Textual Amendments**

**F88** Pt. VI Ch. IA (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

#### **<sup>F89</sup>130B Waste management plans.**

- (1) The regulations may make provision requiring a harbour authority for a harbour in the United Kingdom—
  - (a) in such circumstances as may be prescribed, to prepare a plan with respect to the provision and use of waste reception facilities at the harbour; and
  - (b) to submit the plan to the Secretary of State for approval.
- (2) The regulations may make provision requiring a person—
  - (a) if directed to do so by the Secretary of State, to prepare a plan with respect to the provision and use of waste reception facilities at any terminals operated by him within a harbour which is in the United Kingdom and is specified in the direction; and
  - (b) to submit the plan to the Secretary of State for approval.
- (3) For the purposes of this Chapter—
  - (a) “terminal” means any terminal, jetty, pier, floating structure or other works within a harbour at which ships can obtain shelter or ship and unship goods or passengers; and
  - (b) a person operates a terminal if activities at the terminal are under his control.
- (4) In the following provisions of this section, “waste management plan” means a plan of a description mentioned in subsection (1) or (2) above.
- (5) The regulations may make provision with respect to the form and content of waste management plans and may in particular require such plans to include—
  - (a) proposals as to the information to be provided about waste reception facilities to those who are expected to use them;
  - (b) proposals designed to ensure that adequate provision will be made for the disposal of waste deposited in waste reception facilities; and
  - (c) proposals about how costs incurred in establishing and running waste reception facilities will be recovered.
- (6) The regulations may require a person preparing a waste management plan to have regard to such matters as the Secretary of State may prescribe or in a particular case direct.

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- (7) The regulations may make provision as to the procedures to be followed in connection with waste management plans and may in particular—
- (a) require a person preparing a waste management plan to consult such persons as the Secretary of State may prescribe or in a particular case direct;
  - (b) enable the Secretary of State to approve waste management plans with or without modification or to reject such plans;
  - (c) enable the Secretary of State, if he is satisfied that a person who is required to prepare a waste management plan is not taking any steps necessary in connection with the preparation of the plan, to prepare such a plan;
  - (d) require harbour authorities and persons operating terminals to implement waste management plans once approved, or to take such steps as the Secretary of State may in a particular case direct for the purpose of securing that approved plans are implemented;
  - (e) enable waste management plans, in such circumstances as may be prescribed, to be withdrawn, altered or replaced.

#### Textual Amendments

**F89** Pt. VI Ch. 1A (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

#### <sup>F90</sup>130C Charges for and use of waste reception facilities.

- (1) The regulations may make provision enabling a statutory harbour authority, on levying ship, passenger and goods dues, to impose charges for the purpose of recovering the whole or a part of the costs of the provision by or on behalf of the authority of waste reception facilities at the harbour.
- (2) The regulations may make provision requiring the master of a ship—
  - (a) if reasonably required to do so by a Departmental officer, or
  - (b) in such other circumstances as may be prescribed,to deposit any waste carried by the ship, or any prescribed description of such waste, in waste reception facilities provided at a harbour in the United Kingdom.
- (3) The regulations may make provision—
  - (a) for the reference to arbitration of questions as to whether requirements made under regulations made in pursuance of subsection (2)(a) above were reasonable, and
  - (b) for compensation to be payable by the Secretary of State where a requirement is found to have been unreasonable.
- (4) The regulations may make—
  - (a) provision prohibiting the imposition by persons providing waste reception facilities at harbours in the United Kingdom of charges for the depositing of waste, or any prescribed description of waste, in the facilities; or
  - (b) provision authorising the imposition by such persons of such charges subject to such restrictions as may be prescribed.
- (5) The regulations may provide for charges to be imposed by virtue of subsection (4) (b) above—

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- (a) even though the charges are for the depositing of waste in compliance with a requirement imposed by virtue of subsection (2) above; and
  - (b) even though charges are also imposed by virtue of subsection (1) above.
- (6) Subsections (7) to (9) below apply if the regulations make provision enabling a statutory harbour authority to impose charges of a description mentioned in subsection (1) above.
- (7) The regulations may require information about the charges to be published in a way that is designed to bring the charges to the notice of persons likely to be affected.
- (8) The regulations may provide for the charges to be reduced at the instance of the Secretary of State following the making of an objection by a person of a prescribed description.
- (9) Regulations made by virtue of subsection (8) above may in particular make provision which corresponds to that made by section 31(3) to (12) of the <sup>M19</sup>Harbours Act 1964.
- (10) The regulations may make provision as to the recovery of any charges imposed by virtue of this section.

#### **Textual Amendments**

**F90** Pt. VI Ch. IA (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

#### **Marginal Citations**

**M19** 1964 c. 40.

### **<sup>F91</sup>130D Supplementary.**

- (1) The regulations may provide that where a person contravenes a requirement under the regulations he is guilty of an offence and is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (2) The regulations may—
- (a) provide for exemptions from any provision of the regulations;
  - (b) provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time;
  - (c) make different provision for different cases;
  - (d) include such incidental, supplemental and transitional provision as appears to the Secretary of State to be expedient.
- (3) Regulations under section 130A which contain any provision of a description mentioned in section 130C (whether or not they also contain other provision) shall not be made unless a draft of the statutory instrument containing the regulations has been laid before and approved by a resolution of each House of Parliament.
- (4) A statutory instrument containing regulations under section 130A to which subsection (3) above does not apply (including regulations which revoke provision of a description mentioned in section 130C but do not contain any other provision made

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by virtue of section 130C) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F91** Pt. VI Ch. IA (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

### <sup>F92</sup>130E Interpretation of Chapter IA.

In this Chapter—

“prescribe” means prescribe by regulations;

“ship, passenger and goods dues” has the same meaning—

- (a) in relation to Great Britain, as in the <sup>M20</sup>Harbours Act 1964; and
- (b) in relation to Northern Ireland, as in the <sup>M21</sup>Harbours Act (Northern Ireland) 1970;

“waste reception facilities” has the meaning given by section 130A(1).]

#### Textual Amendments

**F92** Pt. VI Ch. IA (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

#### Marginal Citations

**M20** 1964 c. 40.

**M21** 1970 c. 1 (N.I.).

## CHAPTER II

### OIL POLLUTION

#### *General provisions for preventing pollution*

### 131 Discharge of oil from ships into certain United Kingdom waters.

[<sup>F93</sup>(A1) In this section “relevant discharge” means—

- (a) a discharge of oil or a mixture containing oil which is made—
  - (i) from a ship which is an offshore installation, and
  - (ii) into United Kingdom national waters which are navigable by sea-going ships, or
- (b) a discharge of oil or a mixture containing oil which is made—
  - (i) from a ship which is not an offshore installation, and
  - (ii) into United Kingdom national waters which are navigable by sea-going ships but which do not form part of the sea.]

(1) [<sup>F94</sup>If there is a relevant discharge], subject to the following provisions of this Chapter, the following shall be guilty of an offence, that is to say—

- (a) <sup>F95</sup>...the owner or master of the ship, unless he proves that the discharge took place and was caused as mentioned in paragraph (b) below;

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- (b) if the discharge [<sup>F96</sup>from the ship] takes place in the course of a transfer of oil to or from another ship or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other ship or that place, the owner or master of that other ship or, as the case may be, the occupier of that place.
- (2) Subsection (1) above does not apply to any discharge [<sup>F97</sup>from an offshore installation] which—
- (a) is made into the sea; and
- (b) is of a kind or is made in circumstances for the time being prescribed by regulations made by the Secretary of State.
- (3) A person guilty of an offence under this section shall be liable [<sup>F98</sup>—  
[<sup>F98</sup>on summary conviction, or on conviction on indictment, to a fine].
- [<sup>F100</sup>(3A) In this section “offshore installation” means any mobile or fixed drilling or production platform or any other platform used in connection with the exploration, exploitation or associated offshore processing of sea bed mineral resources.]
- (4) In this section “sea” includes any estuary or arm of the sea.
- (5) In this section “place on land” includes anything resting on the bed or shore of the sea, or of any other waters included in United Kingdom national waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of the sea or any such waters.
- (6) In this section “occupier”, in relation to any such thing as is mentioned in subsection (5) above, if it has no occupier, means the owner thereof.

#### Textual Amendments

- F93** S. 131(A1) inserted (1.7.2009) by [The Merchant Shipping \(Implementation of Ship-Source Pollution Directive\) Regulations 2009 \(S.I. 2009/1210\)](#), regs. 1, **3(2)** (with reg. 6)
- F94** Words in s. 131(1) substituted (1.7.2009) by [The Merchant Shipping \(Implementation of Ship-Source Pollution Directive\) Regulations 2009 \(S.I. 2009/1210\)](#), regs. 1, **3(3)(a)** (with reg. 6)
- F95** Words in s. 131(1)(a) omitted (1.7.2009) by virtue of [The Merchant Shipping \(Implementation of Ship-Source Pollution Directive\) Regulations 2009 \(S.I. 2009/1210\)](#), regs. 1, **3(3)(b)** (with reg. 6)
- F96** Words in s. 131(1)(b) substituted (1.7.2009) by [The Merchant Shipping \(Implementation of Ship-Source Pollution Directive\) Regulations 2009 \(S.I. 2009/1210\)](#), regs. 1, **3(3)(c)** (with reg. 6)
- F97** Words in s. 131(2) inserted (1.7.2009) by [The Merchant Shipping \(Implementation of Ship-Source Pollution Directive\) Regulations 2009 \(S.I. 2009/1210\)](#), regs. 1, **3(4)** (with reg. 6)
- F98** Words in s. 131(3) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 27(9)** (with reg. 5(1))
- F99** Sum in s. 131(3)(a) substituted (17.7.1997) by 1997 c. 28, s. **7(1)(2)** (with s. 7(5)); S.I. 1997/1539, art. 2, **Sch.**
- F100** S. 131(3A) inserted (1.7.2009) by [The Merchant Shipping \(Implementation of Ship-Source Pollution Directive\) Regulations 2009 \(S.I. 2009/1210\)](#), regs. 1, **3(5)** (with reg. 6)

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

- C29** S. 131(3) applied (28.2.1996) by S.I. 1996/282, **art. 3**  
S. 131(3) applied (1.7.1998) by S.I. 1998/1377, **reg. 14(2)**
- C30** S. 131(3) applied (1.7.2009) by S.I. 1996/3010, **reg. 14(1ZA)** (as inserted by [The Merchant Shipping \(Implementation of Ship-Source Pollution Directive\) Regulations 2009 \(S.I. 2009/1210\)](#), regs. 1, **5(a)**)

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- C31** S. 131(3) applied (1.7.2009) by S.I. 1996/2154, **reg. 36A(1)(2)** (as inserted by The Merchant Shipping (Implementation of Ship-Source Pollution Directive) Regulations 2009 (S.I. 2009/1210), regs. 1, **4(13)**)
- C32** S. 131(3) applied (with modifications) (12.12.2006) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage) Order 2006 (S.I. 2006/2950), arts. 1, **6** (as amended (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 71** (with reg. 5(1)))

### **132 Defences of owner or master charged with offence under section 131.**

- (1) Where a person is charged with an offence under section 131 as the owner or master of a ship, it shall be a defence to prove that the oil or mixture was discharged for the purpose of—
- (a) securing the safety of any ship;
  - (b) preventing damage to any ship or cargo, or
  - (c) saving life,
- unless the court is satisfied that the discharge of the oil or mixture was not necessary for that purpose or was not a reasonable step to take in the circumstances.
- (2) Where a person is charged with an offence under section 131 as the owner or master of a ship, it shall also be a defence to prove—
- (a) that the oil or mixture escaped in consequence of damage to the ship, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture; or
  - (b) that the oil or mixture escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

### **133 Defences of occupier charged with offence under section 131**

Where a person is charged, in respect of the escape of any oil or mixture containing oil, with an offence under section 131 as the occupier of a place on land, it shall be a defence to prove that neither the escape nor any delay in discovering it was due to any want of reasonable care and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it.

### **134 Protection for acts done in exercise of certain powers of harbour authorities, etc.**

- (1) Where any oil, or mixture containing oil, is discharged in consequence of—
- (a) the exercise of any power conferred by section 252 or 253; or
  - (b) the exercise, for the purpose of preventing obstruction or danger to navigation, of any power to dispose of sunk, stranded or abandoned ships which is exercisable by a harbour authority under any local enactment;
- and apart from this subsection the authority exercising the power, or a person employed by or acting on behalf of the authority, would be guilty of an offence under section 131 in respect of that discharge, the authority or person shall not be convicted unless it is shown that they or he failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping or reducing the discharge.

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- (2) Subsection (1) above shall apply to the exercise of any power conferred by section 13 of the <sup>M22</sup>Dockyard Ports Regulation Act 1865 (removal of obstructions to dockyard ports) as it applies to the exercise of the powers under sections 252 and 253, and shall, as so applying, have effect as if references to the authority exercising the power were references to the Queen’s harbour master for the port in question.

#### Marginal Citations

M22 1865 c. 125.

### 135 Restrictions on transfer of oil at night.

- (1) No oil shall be transferred between sunset and sunrise to or from a ship in any harbour in the United Kingdom unless the requisite notice has been given in accordance with this section or the transfer is for the purposes of a [<sup>F101</sup>fire and rescue authority or other employer of fire-fighters][<sup>F102</sup>the Scottish Fire and Rescue Service][<sup>F103</sup>the Northern Ireland Fire and Rescue Service Board or other employer of fire-fighters].
- (2) A general notice may be given to the harbour master of a harbour that transfers of oil between sunset and sunrise will be frequently carried out at a place in the harbour within such period, not ending later than twelve months after the date on which the notice is given, as is specified in the notice; and if such a notice is given it shall be the requisite notice for the purposes of this section as regards transfers of oil at that place within the period specified in the notice.
- (3) Subject to subsection (2) above, the requisite notice for the purposes of this section shall be a notice given to the harbour master not less than three hours nor more than 96 hours before the transfer of oil begins.
- (4) In the case of a harbour which has no harbour master, references in this section to the harbour master shall be construed as references to the harbour authority.
- (5) If any oil is transferred to or from a ship in contravention of this section, the master of the ship, and, if the oil is transferred from or to a place on land, the occupier of that place, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

**F101** Words in s. 135(1) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\), s. 61, Sch. 1 para. 87](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

**F102** Words in s. 135(1) substituted (S.) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), sch. 7 para. 59](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

**F103** Words in s. 135(1) substituted (N.I.) (1.7.2006) by [The Fire and Rescue Services \(Northern Ireland\) Order 2006 \(S.I. 2006/1254\), art. 1\(3\), Sch. 3 para. 21](#); S.R. 2006/257, art. 2(d)

### 136 Duty to report discharge of oil into waters of harbours.

- (1) If any oil or mixture containing oil—



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- (a) is discharged from a ship into the waters of a harbour in the United Kingdom;  
or
  - (b) is found to be escaping or to have escaped from a ship into any such waters;
- the owner or master of the ship shall forthwith report the occurrence to the harbour master, or, if the harbour has no harbour master, to the harbour authority.
- (2) A report made under subsection (1) above shall state whether the occurrence falls within subsection (1)(a) or (b) above.
- (3) If a person fails to make a report as required by this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

[<sup>F104</sup>**136A Discharges etc. authorised under other enactments.**

The provisions of sections 131(1) and 136(1) shall not apply to any discharge which is made under, and the provisions of section 136(1) shall not apply to any escape which is authorised by, [<sup>F105</sup>an authorisation granted under Part I of the <sup>M25</sup>Environmental Protection Act 1990 or] a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999 [<sup>F106</sup>or an authorisation or permit granted under any corresponding provisions of the law of Northern Ireland].]

**Textual Amendments**

- F104** S. 136A inserted (21.3.2000 for E.W., 1.4.2015 for S.) by 1999 c. 24, ss. 6(1), 7(3), **Sch. 2 para. 13**; S.I. 2000/800, **art. 2**; S.S.I. 2015/74, **art. 2(1)**
- F105** Words in s. 136A repealed (1.4.2015 for S.) by Pollution Prevention and Control Act 1999 (c. 24), s. 7(3), **Sch. 3**; S.S.I. 2015/74, **art. 2(2)(f)**
- F106** Words in s. 136A added (N.I.) (18.1.2003) by S.I. 2002/3153, **art. 53(1)**, **Sch. 5 para. 4**

**Marginal Citations**

- M23** 1990 c. 43.

*Shipping casualties*

[<sup>F107</sup>**137 Shipping casualties.**

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**Textual Amendments**

- F107** Ss. 137-141 repealed (10.9.2003) by Marine Safety Act 2003 (c. 16), s. 4, **Sch. 2 para. 2(b)**, **Sch. 3**

[<sup>F107</sup>**138 Right to recover in respect of unreasonable loss or damage.**

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**Textual Amendments**

- F107** Ss. 137-141 repealed (10.9.2003) by Marine Safety Act 2003 (c. 16), s. 4, **Sch. 2 para. 2(b)**, **Sch. 3**

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<sup>F107</sup>[138A]<sup>F108</sup> **Application of sections 137 and 138 to pollution by substances other than oil.**

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**Textual Amendments**

**F107** Ss. 137-141 repealed (10.9.2003) by [Marine Safety Act 2003 \(c. 16\)](#), s. 4, Sch. 2 para. 2(b), [Sch. 3](#)

**F108** S. 138A inserted (17.7.1997) by [1997 c. 28, s. 3\(1\)](#) (with s. 3(2)); S.I. 1997/1539, art. 2, [Sch.](#)

<sup>F107</sup>**139 Offences in relation to section 137.**

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**Textual Amendments**

**F107** Ss. 137-141 repealed (10.9.2003) by [Marine Safety Act 2003 \(c. 16\)](#), s. 4, Sch. 2 para. 2(b), [Sch. 3](#)

<sup>F107</sup>**140 Service of directions under section 137.**

.....

**Textual Amendments**

**F107** Ss. 137-141 repealed (10.9.2003) by [Marine Safety Act 2003 \(c. 16\)](#), s. 4, Sch. 2 para. 2(b), [Sch. 3](#)

<sup>F107</sup>**141 Application of sections 137 to 140 to certain foreign and other ships.**

.....

**Textual Amendments**

**F107** Ss. 137-141 repealed (10.9.2003) by [Marine Safety Act 2003 \(c. 16\)](#), s. 4, Sch. 2 para. 2(b), [Sch. 3](#)

*Enforcement*

**142 Oil records.**

(1) The Secretary of State may make regulations requiring oil record books to be carried in United Kingdom ships and requiring the master of any such ship to record in the oil record book carried by it—

- (a) the carrying out, on board or in connection with the ship, of such of the following operations as may be prescribed relating to—
- (i) the loading of oil cargo,
  - (ii) the transfer of oil cargo during a voyage,
  - (iii) the discharge of oil cargo,
  - (iv) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks,

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- (v) the separation of oil from water, or from other substances, in any mixture containing oil,
    - (vi) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in (i) to (v) above, or
    - (vii) the disposal of any other oil residues;
  - (b) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the safety of any ship, or of preventing damage to any ship or cargo, or of saving life;
  - (c) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from the ship in consequence of damage to the ship, or by reason of leakage.
- (2) The Secretary of State may make regulations requiring the keeping of records relating to the transfer of oil to and from ships while they are within United Kingdom waters; and the requirements of any regulations made under this subsection shall be in addition to the requirements of any regulations made under subsection (1) above.
- (3) Any records required to be kept by regulations made under subsection (2) above shall, unless the ship is a barge, be kept by the master of the ship, and shall, if the ship is a barge, be kept, in so far as they relate to the transfer of oil to the barge, by the person supplying the oil and, in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.
- (4) Regulations under this section requiring the carrying of oil record books or the keeping of records may—
  - (a) prescribe the form of the oil record books or records and the nature of the entries to be made in them;
  - (b) require the person providing or keeping the books or records to retain them for a prescribed period;
  - (c) require that person, at the end of the prescribed period, to transmit the books or records to a place or person determined by or under the regulations;
  - (d) provide for the custody or disposal of the books or records after their transmission to such a place or person.
- (5) Regulations under this section may—
  - (a) be made with respect to all or with respect to any one or more of the classes of ship or other matters to which this section relates;
  - (b) make different provision for different classes of ship or otherwise for different classes of case or different circumstances.
- (6) If any ship fails to carry such an oil record book as it is required to carry under this section the owner or master shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) If any person fails to comply with any requirements imposed on him by or under this section, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) If any person makes an entry in any oil record book carried or record kept under this section which is to his knowledge false or misleading in any material particular, he shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or imprisonment for a term not exceeding six months, or both;

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- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.
- (9) In any proceedings under this Chapter—
- (a) any oil record book carried or record kept in pursuance of regulations made under this section shall be admissible as evidence, and in Scotland shall be sufficient evidence, of the facts stated in it;
  - (b) any copy of an entry in such an oil record book or record which is certified by the master of the ship in which the book is carried or by the person by whom the record is required to be kept to be a true copy of the entry shall be admissible as evidence, and in Scotland shall be sufficient evidence, of the facts stated in the entry;
  - (c) any document purporting to be an oil record book carried or record kept in pursuance of regulations made under this section, or purporting to be such a certified copy as is mentioned in paragraph (b) above, shall, unless the contrary is proved, be presumed to be such a book, record or copy, as the case may be.
- (10) In this section “barge” includes a lighter and any similar vessel.

#### **143 Prosecutions and enforcement of fines.**

- (1) Proceedings for an offence under this Chapter may, in England and Wales be brought only—
- (a) by or with the consent of the Attorney General, or
  - (b) if the offence is one to which subsection (4) below applies, by the harbour authority, or
  - (c) unless the offence is one mentioned in subsection (4)(b) or (c) below, by the Secretary of State or a person authorised by any general or special direction of the Secretary of State.
- (2) Subject to subsection (3) below, proceedings for an offence under this Chapter may, in Northern Ireland, be brought only—
- (a) by or with the consent of the Attorney General for Northern Ireland,
  - (b) if the offence is one to which subsection (4) below applies, by a harbour authority, or
  - (c) unless the offence is one mentioned in subsection (4)(b) or (c) below, by the Secretary of State or a person authorised by any general or special direction of the Secretary of State.
- (3) Subsection (2) above shall have effect in relation to proceedings for an offence under section 131 relating to the discharge of oil or a mixture containing oil from a ship in a harbour in Northern Ireland as if the references in paragraph (c) to the Secretary of State were references to the Secretary of State or the Department of the Environment for Northern Ireland.
- (4) This subsection applies to the following offences—
- (a) any offence under section 131 which is alleged to have been committed by the discharge of oil, or a mixture containing oil, into the waters of a harbour in the United Kingdom;
  - (b) any offence in relation to a harbour in the United Kingdom under section 135 or 136; and

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- (c) any offence under section 142 relating to the keeping of records of the transfer of oil within such a harbour.
- (5) The preceding provisions of this section shall apply in relation to any part of a dockyard port within the meaning of the <sup>M24</sup>Dockyard Ports Regulation Act 1865 as follows—
- (a) if that part is comprised in a harbour in the United Kingdom, the reference to the harbour authority shall be construed as including a reference to the Queen’s harbour master for the port;
- (b) if that part is not comprised in a harbour in the United Kingdom, the references to such a harbour shall be construed as references to such a dockyard port and the reference to the harbour authority as a reference to the Queen’s harbour master for the port.
- (6) Any document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under section 131 alleged to have been committed by the company as the owner of the ship shall be treated as duly served on that company if the document is served on the master of the ship.
- [<sup>F109</sup>In this subsection “foreign company” means a company or body which is not one to which section 1139 of the Companies Act 2006 applies so as to authorise service of the document in question.]
- (7) Any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Chapter shall, for that purpose, have the right to go on board the ship in question.

#### Textual Amendments

**F109** Words in s. 143(6) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 152(2)** (with art. 10)

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

- C33** S. 143(6) applied (with modifications) (1.7.1998) by [S.I. 1998/1377](#), **reg. 15(1)**
- C34** S. 143(6) applied (with modifications) (8.12.2008) by [The Merchant Shipping \(Prevention of Air Pollution from Ships\) Regulations 2008 \(S.I. 2008/2924\)](#), regs. 1, **33** (with reg. 3)
- C35** S. 143(6) applied (with modifications) (1.2.2009) by [The Merchant Shipping \(Prevention of Pollution by Sewage and Garbage from Ships\) Regulations 2008 \(S.I. 2008/3257\)](#), regs. 1(2), **43** (with reg. 6(17))
- C36** S. 143(6) applied (with modifications) (1.12.2009) by [The Merchant Shipping \(Anti-Fouling Systems\) Regulations 2009 \(S.I. 2009/2796\)](#), regs. 1, **15** (with reg. 3)

#### Marginal Citations

**M24** 1865 c. 125.

### 144 Power to detain ships for section 131 offences.

- (1) Where a harbour master has reason to believe that the master or owner of a ship has committed an offence under section 131 by the discharge from the ship of oil, or a mixture containing oil, into the waters of the harbour, the harbour master may detain the ship.

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- (2) Section 284, in its application to the detention of a ship under this section, shall have effect with the omission of subsections (1), (6) and (7) and as if—
- (a) in subsection (2), the reference to competent authority were a reference to the harbour authority; and
  - (b) in subsection (4), the persons in relation to whom that subsection applies were the harbour master or any person acting on his behalf.
- (3) Where a harbour master detains a ship other than a United Kingdom ship under this section he shall immediately notify the Secretary of State, who shall then inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.
- In this subsection “United Kingdom ship” has the same meaning as in section 85.
- (4) A harbour master who detains a ship under this section shall immediately release the ship—
- (a) if no proceedings for the offence are instituted within the period of seven days beginning with the day on which the ship is detained;
  - (b) if proceedings for the offence, having been instituted within that period, are concluded without the master or owner being convicted;
  - (c) if either—
    - (i) the sum of [F110£255,000] is paid to the harbour authority by way of security, or
    - (ii) security which, in the opinion of the harbour authority, is satisfactory and is for an amount not less than [F110£255,000] is given to the harbour authority,
 by or on behalf of the master or owner; or
  - (d) where the master or owner is convicted of the offence, if any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid.
- (5) The harbour authority shall repay any sum paid in pursuance of subsection (4)(c) above or release any security so given—
- (a) if no proceedings for the offence are instituted within the period of seven days beginning with the day on which the sum is paid; or
  - (b) if proceedings for the offence, having been instituted within that period, are concluded without the master or owner being convicted.
- (6) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (4)(c) above and the master or owner is convicted of the offence, the sum so paid or the amount made available under the security shall be applied as follows—
- (a) first in payment of any costs or expenses ordered by the court to be paid by the master or owner; and
  - (b) next in payment of any fine imposed by the court;
- and any balance shall be repaid to the first-mentioned person.
- (7) Any reference in this section to a harbour master or a harbour authority shall, where the harbour in question consists of or includes the whole or any part of a dockyard port within the meaning of the <sup>M25</sup>Dockyard Ports Regulation Act 1865, be construed as including a reference to the Queen’s harbour master for the port.
- (8) This section does not apply in relation to a ship of Her Majesty’s navy or any Government ship.

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#### Textual Amendments

**F110** Sums in s. 144(4)(c)(i)(ii) substituted (17.7.1997) by 1997 c. 28, s. 7(3)(4) (with s. 7(5)); S.I. 1997/1539, art. 2, Sch.

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

**C37** S. 144(2)(3) applied (8.12.2008) by The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924), regs. 1, 29(2) (with reg. 3)

**C38** S. 144(2)(3) applied (1.2.2009) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 (S.I. 2008/3257), regs. 1(2), 39(2) (with reg. 6(17))

#### Marginal Citations

**M25** 1865 c. 125.

## 145 Interpretation of section 144

- (1) This section has effect for the interpretation of the references in section 144 to the institution of proceedings or their conclusion without the master or owner of a ship being convicted of an offence under section 131.
- (2) For the purposes of section 144 in its application to England and Wales—
  - (a) proceedings for an offence under section 131 are instituted—
    - (i) when a justice of the peace issues a summons or warrant under section 1 of the <sup>M26</sup>Magistrates' Courts Act 1980 in respect of the offence;
    - (ii) when a person is charged with the offence after being taken into custody without a warrant;
    - (iii) when a bill of indictment is preferred under section 2(2)(b) of the <sup>M27</sup>Administration of Justice (Miscellaneous Provisions) Act 1933; and
  - (b) proceedings for the offence are concluded without the master or owner being convicted on the occurrence of one of the following events—
    - (i) the discontinuance of the proceedings;
    - (ii) the acquittal of the master or owner;
    - (iii) the quashing of the master's or owner's conviction of the offence;
    - (iv) the grant of Her Majesty's pardon in respect of the master's or owner's conviction of the offence.
- (3) For the purposes of section 144 in its application to Northern Ireland—
  - (a) proceedings for an offence under section 131 are instituted—
    - (i) when a justice of the peace issues a summons or warrant under Article 20 of the <sup>M28</sup>Magistrates' Courts (Northern Ireland) Order 1981;
    - (ii) when a person is charged with the offence after being taken into custody without a warrant;
    - (iii) when an indictment is presented under section 2(2)(c), (e) or (f) of the <sup>M29</sup>Grand Jury (Abolition) Act (Northern Ireland) 1969; and
  - (b) proceedings for an offence under section 131 are concluded without the master or owner being convicted on the occurrence of one of the following events—
    - (i) the discontinuance of the proceedings;

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- (ii) the acquittal of the master or owner;
  - (iii) the quashing of the master's or owner's conviction of the offence;
  - (iv) the grant of Her Majesty's pardon in respect of the master's or owner's conviction of the offence.
- (4) Where the application of subsection (2)(a) or (3)(a) above would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.
- (5) For the purposes of section 144 in its application to Scotland—
- (a) proceedings for an offence under section 131 are instituted—
    - (i) on the granting by the sheriff of a warrant in respect of the offence on presentation of a petition under section 12 of the <sup>M30</sup>Criminal Procedure (Scotland) Act 1975;
    - (ii) when, in the absence of a warrant or citation, the master or owner is first brought before a court competent to deal with the case;
    - (iii) when, in a case where he is liberated upon a written undertaking in terms of section 18(2)(a), 294(2)(a) or 295(1)(a) of the Criminal Procedure (Scotland) Act 1975, the master or owner appears at the specified time;
    - (iv) when, in a case mentioned in (iii) above where the master or owner fails to appear at the specified court at the specified time, the court grants warrant for his apprehension;
    - (v) when summary proceedings are commenced in terms of section 331(3) of the Criminal Procedure (Scotland) Act 1975;
  - (b) proceedings for an offence under section 131 are concluded without the master or owner being convicted on the occurrence of one of the following events—
    - (i) the court makes a finding of not guilty or not proven against the master or owner in respect of the offence;
    - (ii) the proceedings are expressly abandoned (other than *pro loco et tempore*) by the prosecutor or are deserted simpliciter;
    - (iii) the conviction is quashed;
    - (iv) the accused receives Her Majesty's pardon in respect of the conviction.

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

- C39** S. 145 applied (with modifications) (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Vibration at Work\) Regulations 2007](#) (S.I. 2007/3077), regs. 1, **16(7)**
- C40** S. 145 applied (with modifications) (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Noise at Work\) Regulations 2007](#) (S.I. 2007/3075), regs. 1, **17(7)**
- C41** S. 145 applied (with modifications) (1.3.2008) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Carcinogens and Mutagens\) Regulations 2007](#) (S.I. 2007/3100), regs. 1, **20(7)**
- C42** S. 145 applied (with modifications) (8.12.2008) by [The Merchant Shipping \(Prevention of Air Pollution from Ships\) Regulations 2008](#) (S.I. 2008/2924), regs. 1, **29(7)** (with reg. 3)
- C43** S. 145 applied (with modifications) (8.12.2008) by [The Merchant Shipping \(Prevention of Air Pollution from Ships\) Regulations 2008](#) (S.I. 2008/2924), regs. 1, **28(11)** (with reg. 3)



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- C44** S. 145 applied (with modifications) (1.2.2009) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 (S.I. 2008/3257), regs. 1(2), **38(11)** (with reg. 6(17))
- C45** S. 145 applied (with modifications) (1.2.2009) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 (S.I. 2008/3257), regs. 1(2), **39(7)** (with reg. 6(17))
- C46** S. 145 applied (with modifications) (1.12.2009) by The Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796), regs. 1, **12(11)** (with reg. 3)
- C47** S. 145 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010 (S.I. 2010/323), regs. 1, **25(7)** (with regs. 4, 5)
- C48** S. 145 applied (with modifications) (6.4.2010) by The Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010 (S.I. 2010/680), regs. 1(2), **22(9)** (with reg. 3)
- C49** S. 145 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (S.I. 2010/330), regs. 1, **18(7)** (with regs. 4, 5)
- C50** S. 145 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010 (S.I. 2010/332), regs. 1, **20(7)** (with regs. 4, 5)
- C51** S. 145 applied (with modifications) (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010 (S.I. 2010/2987), regs. 1, **14(7)**
- C52** S. 145 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010 (S.I. 2010/2984), regs. 1, **24(7)**
- C53** S. 145 applied (with modifications) (15.8.2013) by The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785), regs. 1, **17(8)**
- C54** S. 145 applied (with modifications) (17.3.2014) by S.I. 2002/2125, **reg. 17A(9)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), regs. 1(2), **2(19)**)
- C55** S. 145 applied (with modifications) (18.7.2014) by The Merchant Shipping (International Safety Management (ISM) Code) Regulations 2014 (S.I. 2014/1512), regs. 1(1), **14(10)** (with reg. 3)
- C56** S. 145 applied (with modifications) (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **56(6)**
- C57** S. 145 applied (with modifications) (13.10.2014) by S.I. 1997/2962, **reg. 27B(10)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014 (S.I. 2014/1616), regs. 1(2), **2(18)**)

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#### Marginal Citations

- M26** 1980 c. 43.  
**M27** 1933 c. 36.  
**M28** S.I. 1981/1675 (NI 26).  
**M29** 1969 c. 15 (N.I.).  
**M30** 1975 c. 21.

## 146 Enforcement and application of fines.

- (1) Where a fine imposed by a court in proceedings against the owner or master of a ship for an offence under this Chapter is not paid, or any costs or expenses ordered to be paid by him are not paid, at the time ordered by the court, the court shall, in addition to any other powers of enforcing payment, have power—
- (a) except in Scotland, to direct the amount remaining unpaid to be levied by distress,

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(b) in Scotland, to grant warrant authorising the arrestment and sale, of the ship and its equipment.

- (2) Where a person is convicted of an offence under section 131, and the court imposes a fine in respect of the offence, then, if it appears to the court that any person has incurred, or will incur, expenses in removing any pollution, or making good any damage, which is attributable to the offence, the court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

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

- C58** S. 146 applied (with modifications) (1.7.1998) by S.I. 1998/1377, **reg. 15(2)**
- C59** S. 146 applied (with modifications) (8.12.2008) by The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924), regs. 1, **34** (with reg. 3)
- C60** S. 146 applied (with modifications) (1.2.2009) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 (S.I. 2008/3257), regs. 1(2), **44** (with reg. 6(17))
- C61** S. 146(1) applied (with modifications) (with application in accordance with reg. 4 of the amending S.I.) by The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007 (S.I. 2007/3075), regs. 1, **14(6)**
- C62** S. 146(1) applied (with modifications) (with application in accordance with reg. 4 of the amending S.I.) by The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007 (S.I. 2007/3077), regs. 1, **13(5)**
- C63** S. 146(1) applied (with modifications) (1.12.2009) by The Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796), regs. 1, **16** (with reg. 3)
- C64** S. 146(1) applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (S.I. 2010/330), regs. 1, **15(5)** (with regs. 4, 5)
- C65** S. 146(1) applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010 (S.I. 2010/323), regs. 1, **22(6)** (with regs. 4, 5)
- C66** S. 146(1) applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010 (S.I. 2010/332), regs. 1, **17(4)** (with regs. 4, 5)
- C67** S. 146(1) applied (with modifications) (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010 (S.I. 2010/2984), regs. 1, **21(5)**
- C68** S. 146(1) applied (with modifications) (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010 (S.I. 2010/2987), regs. 1, **12(5)**

**147 Enforcement of Conventions relating to oil pollution.**

- (1) Her Majesty may by Order in Council empower such persons as may be designated by or under the Order to go on board any Convention ship while the ship is within a harbour in the United Kingdom, and to require production of any oil record book required to be carried in accordance with the Convention.
- (2) An Order in Council under this section may, for the purposes of the Order, and with any necessary modifications, apply any of the provisions of this Chapter relating to the production and inspection of oil record books and the taking of copies of entries therein, and to the admissibility in evidence of such oil record books and copies, including any penal provisions of this Chapter in so far as they relate to those matters, and may also apply section 259.

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- (3) Her Majesty, if satisfied that the government of any country has accepted, or denounced, the Convention, or that the Convention extends, or has ceased to extend, to any territory, may by Order in Council make a declaration to that effect.
- (4) In this section—
- “the Convention” means any Convention accepted by Her Majesty’s Government in the United Kingdom in so far as it relates to the prevention of pollution of the sea by oil; and
- “Convention ship” means a ship registered in—
- (a) a country the government of which has been declared by an Order in Council under subsection (3) above to have accepted the Convention, and has not been so declared to have denounced it; or
- (b) a territory to which it has been so declared that the Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend.

*Miscellaneous and supplementary*

**148 Power of Secretary of State to grant exemptions.**

The Secretary of State may exempt from any of the provisions of this Chapter or of any regulations made thereunder, either absolutely or subject to such conditions as he thinks fit—

- (a) any ship or classes of ships;
- (b) any discharge of, or of a mixture containing, oil.

**149 Application to Government ships.**

- (1) This Chapter does not apply to ships of Her Majesty’s navy, nor to Government ships in the service of the Secretary of State while employed for the purposes of Her Majesty’s navy.
- (2) Subject to subsection (1) above and to section 141(4) and section 144(8)—
- (a) provisions of this Chapter which are expressed to apply only to United Kingdom ships apply to Government ships registered in the United Kingdom and also to Government ships not so registered but held for the purposes of Her Majesty’s Government in the United Kingdom;
- (b) provisions of this Chapter which are expressed to apply to ships generally apply to Government ships.

**150 Annual Report.**

- (1) The Secretary of State shall, as soon as possible after the end of each calendar year, make a report on the exercise and performance of his functions under this Chapter during that year.
- (2) Every such report shall include such observations as he may think fit to make on the operation during that year of this Chapter and of any Convention accepted by Her Majesty’s Government in the United Kingdom in so far as it relates to the prevention of pollution of the sea by oil.

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- (3) The Secretary of State shall lay a copy of every such report before each House of Parliament.

## 151 Interpretation.

- (1) In this Chapter—

“harbour authority” means a person or body of persons empowered by an enactment to make charges in respect of ships entering a harbour in the United Kingdom or using facilities therein;

“harbour in the United Kingdom” means a port, estuary, haven, dock or other place the waters of which are within United Kingdom national waters and in respect of entry into or the use of which by ships a person or body of persons is empowered by an enactment (including a local enactment) to make any charges other than charges in respect of navigational aids or pilotage;

“harbour master” includes a dock master or pier master, and any person specially appointed by a harbour authority for the purpose of enforcing the provisions of this Chapter in relation to the harbour;

“local enactment” means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special Parliamentary procedure;

“oil” means oil of any description and includes spirit produced from oil of any description, and also includes coal tar;

“oil residues” means any waste consisting of, or arising from, oil or a mixture containing oil;

“place on land” has the meaning given in section 131;

“transfer”, in relation to oil, means transfer in bulk.

- (2) For the purposes of the definition of “harbour in the United Kingdom” “charges in respect of navigational aids” means general light dues, local light dues and any other charges payable in respect of lighthouses, buoys or beacons.
- (3) Any reference in any provision of this Chapter to a mixture containing oil shall be construed as a reference to any mixture of oil (or, as the case may be, of oil of a description referred to in that provision) with water or with any other substance.
- (4) Any reference in this Chapter, other than in section 136, to the discharge of oil or a mixture containing oil, or to its being discharged, from a ship, place or thing, except where the reference is to its being discharged for a specific purpose, includes a reference to the escape of oil or mixture, or (as the case may be) to its escaping, from that ship, place or thing.
- (5) For the purposes of any provision of this Chapter relating to the discharge of oil or a mixture containing oil from a ship, any floating craft (other than a ship) which is attached to a ship shall be treated as part of the ship.
- (6) Any power conferred by section 259 in its application to this Chapter to test any equipment on board a ship shall be construed as including a power to require persons on board the ship to carry out such work as may be requisite for the purpose of testing the equipment; and any provision of that section as to submitting equipment for testing shall be construed accordingly.
- (7) Subject to section 18 of the <sup>M31</sup>Interpretation Act 1978 (offence under two or more laws) nothing in this Chapter shall—

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- (a) affect any restriction imposed by or under any other enactment, whether contained in a public general Act or a local or private Act; or
- (b) derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Chapter.

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#### Marginal Citations

M31 1978 c. 30.

### CHAPTER III

#### LIABILITY FOR OIL POLLUTION

##### *Preliminary*

#### 152 Meaning of [<sup>F111</sup>“the Bunkers Convention”,] “the Liability Convention” and related expressions.

(1) In this Chapter—

[<sup>F112</sup>“the Bunkers Convention” means the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001;

“Bunkers Convention country” means a country in respect of which the Bunkers Convention is in force;

“Bunkers Convention State” means a State which is a party to the Bunkers Convention;]

“the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1992;

“Liability Convention country” means a country in respect of which the Liability Convention is in force; and

“Liability Convention State” means a State which is a party to the [<sup>F113</sup>Liability] Convention.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Liability Convention [<sup>F114</sup>or the Bunkers Convention] in respect of any country so specified the Order shall, while in force, be conclusive evidence that that State is a party to [<sup>F115</sup>that Convention] in respect of that country.

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#### Textual Amendments

**F111** Words in s. 152 heading inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **3(2)** (with reg. 1(5))

**F112** Words in s. 152(1) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **3(3)(a)** (with reg. 1(5))

**F113** Word in s. 152(1) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **3(3)(b)** (with reg. 1(5))

**F114** Words in s. 152(2) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **3(4)** (with reg. 1(5))

**F115** Words in s. 152(2) substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **3(4)** (with reg. 1(5))

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

- C69** S. 152 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)
- S. 152 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)
- S. 152 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)
- S. 152 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)
- S. 152 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)
- S. 152 extended (with modifications) to the Pitcairn, Henderson, Ducies and Oeno Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)
- S. 152 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)
- S. 152 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)
- S. 152 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)
- S. 152 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)
- S. 152 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)
- S. 152 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)
- S. 152 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)
- S. 152 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)
- S. 152 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

### *Liability*

#### **153 Liability for oil pollution in case of tankers.**

- (1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Chapter) the <sup>F116</sup>registered owner] of the ship shall be liable—
- (a) for any damage caused outside the ship in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (c) for any damage caused in the territory of the United Kingdom by any measures so taken.
- (2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the <sup>F116</sup>registered owner] of the ship shall be liable—
- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the United Kingdom; and
  - (b) for any damage caused outside the ship in the territory of the United Kingdom by any measures so taken;

<sup>F117</sup> ...

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[<sup>F118</sup>(2A) In this Chapter, such a threat is referred to as a relevant threat of contamination falling within subsection (2) of this section.]

- (3) Subject to subsection (4) below, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.
- (4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—
- (a) while it is carrying oil in bulk as cargo; and
  - (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil, but not otherwise.
- (5) Where a person incurs a liability under subsection (1) or (2) above he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the territory of the United Kingdom included the territory of any other Liability Convention country.
- (6) Where—
- (a) as a result of any occurrence, a liability is incurred under this section by the [<sup>F116</sup>registered owner] of each of two or more ships, but
  - (b) the damage or cost for which each of the [<sup>F116</sup>registered owners] would be liable cannot reasonably be separated from that for which the other or others would be liable,
- each of the [<sup>F116</sup>registered owners] shall be liable, jointly with the other or others, for the whole of the damage or cost for which the [<sup>F116</sup>registered owners] together would be liable under this section.

<sup>F119</sup>(7) .....

<sup>F119</sup>(8) .....

#### Textual Amendments

- F116** Words in s. 153 substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **4(2)** (with reg. 1(5))
- F117** Words in s. 153(2) omitted (21.11.2008) by virtue of [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **4(3)** (with reg. 1(5))
- F118** S. 153(2A) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **4(4)** (with reg. 1(5))
- F119** S. 153(7)(8) omitted (21.11.2008) by virtue of [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **4(5)** (with reg. 1(5))

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

- C70** S. 153 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**
- S. 153 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**
- S. 153 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**
- S. 153 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**
- S. 153 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, **Sch.**

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- S. 153 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oeno Islands (30.11.1997) by [S.I. 1997/2585](#), [arts. 2, 3](#), [Sch.](#)
- S. 153 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), [art. 2](#), [Sch.](#)
- S. 153 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), [art. 2](#), [Sch.](#)
- S. 153 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), [art. 2](#), [Sch.](#)
- S. 153 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), [art. 2](#), [Sch.](#)
- S. 153 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 153 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 153 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), [art. 2](#), [Sch.](#)
- S. 153 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), [art. 2](#), [Sch.](#)
- S. 153 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), [art. 2](#), [Sch.](#)

### <sup>F120</sup>153A Liability for pollution by bunker oil

- (1) Subject to subsection (3), where, as a result of any occurrence, any bunker oil is discharged or escapes from a ship then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
  - (a) for any damage caused outside the ship in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (c) for any damage caused in the territory of the United Kingdom by any measures so taken.
- (2) Subject to subsection (3), where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship by the contamination that might result if there were a discharge or escape of bunker oil from the ship then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
  - (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the United Kingdom; and
  - (b) for any damage caused outside the ship in the territory of the United Kingdom by any measures so taken.
- (3) There shall be no liability under this section in relation to —
  - (a) a discharge or escape of bunker oil from a ship to which section 153 applies, or
  - (b) a threat mentioned in subsection (2) arising in relation to a potential discharge or escape of bunker oil from such a ship,
 where that bunker oil is also persistent hydrocarbon mineral oil.
- (4) In the subsequent provisions of this Chapter—
  - (a) a discharge or escape of bunker oil from a ship, other than a discharge or escape of oil excluded by subsection (3), is referred to as a discharge or escape of bunker oil falling within subsection (1) of this section; and
  - (b) a threat mentioned in subsection (2), other than one excluded by subsection (3), is referred to as a relevant threat of contamination falling within subsection (2) of this section.



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- (5) Where a person incurs a liability under subsection (1) or (2) he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the territory of the United Kingdom included the territory of any other Bunkers Convention country.
- (6) Where—
- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
  - (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,
- each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.
- (7) In this Chapter (except in section 170(1)) “owner”, except when used in the term “registered owner”, means the registered owner, bareboat charterer, manager and operator of the ship.]

#### Textual Amendments

**F120** S. 153A inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), 5 (with reg. 1(5))

#### 154 Liability for oil pollution [<sup>F121</sup>in other cases].

- (1) [<sup>F122</sup>Subject to subsection (2A),] where, as a result of any occurrence, any oil is discharged or escapes from a ship <sup>F123</sup>..., then (except as otherwise provided by this Chapter) the [<sup>F124</sup>registered owner] of the ship shall be liable—
- (a) for any damage caused outside the ship in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (c) for any damage so caused in the territory of the United Kingdom by any measures so taken.
- (2) [<sup>F122</sup>Subject to subsection (2A),] where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship <sup>F123</sup>... by the contamination which might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the [<sup>F124</sup>registered owner] of the ship shall be liable—
- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the United Kingdom; and
  - (b) for any damage caused outside the ship in the territory of the United Kingdom by any measures so taken;

<sup>F125</sup> ...

[<sup>F126</sup>(2A) No liability shall be incurred under this section by reason of—

- (a) a discharge or escape of oil from a ship to which section 153 applies or a relevant threat of contamination falling within subsection (2) of that section;

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- (b) a discharge or escape of bunker oil falling within section 153A(1) or a relevant threat of contamination falling within section 153A(2).
- (2B) In the subsequent provisions of this Chapter—
- (a) a discharge or escape of oil from a ship, other than one excluded by subsection (2A), is referred to as a discharge or escape of oil falling within subsection (1) of this section; and
- (b) a threat mentioned in subsection (2), other than one excluded by subsection (2A), is referred to as a relevant threat of contamination falling within subsection (2) of this section.]
- (3) Where—
- (a) as a result of any occurrence, a liability is incurred under this section by the [F124 registered owner] of each of two or more ships, but
- (b) the damage or cost for which each of the [F124 registered owners] would be liable cannot reasonably be separated from that for which the other or others would be liable,
- each of the [F124 registered owners] shall be liable, jointly with the other or others, for the whole of the damage or cost for which the [F124 registered owners] together would be liable under this section.
- (4) The M32 Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the M33 Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.
- (5) In this section [F127 (apart from subsection (2A))] “ship” includes a vessel which is not seagoing.

#### Textual Amendments

- F121** Words in s. 154 heading substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **6(2)** (with reg. 1(5))
- F122** Words in s. 154(1)(2) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **6(4)** (with reg. 1(5))
- F123** Words in s. 154(1)(2) omitted (21.11.2008) by virtue of [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **6(4)** (with reg. 1(5))
- F124** Words in s. 154 substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **6(3)** (with reg. 1(5))
- F125** Words in s. 154(2) omitted (21.11.2008) by virtue of [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **6(5)** (with reg. 1(5))
- F126** S. 154(2A)(2B) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **6(6)** (with reg. 1(5))
- F127** Words in s. 154(5) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **6(7)** (with reg. 1(5))

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

- C71** S. 154 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**
- S. 154 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**
- S. 154 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**
- S. 154 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**

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- S. 154 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), [art. 2](#), [Sch.](#)
- S. 154 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oeno Islands (30.11.1997) by [S.I. 1997/2585](#), [art. 2](#), [Sch.](#)
- S. 154 extended (with modifications) to the Sovereign Base Islands of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), [art. 2](#), [Sch.](#)
- S. 154 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), [art. 2](#), [Sch.](#)
- S. 154 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), [art. 2](#), [Sch.](#)
- S. 154 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), [art. 2](#), [Sch.](#)
- S. 154 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), [arts. 2, 3](#), [Sch.](#)
- S. 154 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 154 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), [art. 2](#), [Sch.](#)
- S. 154 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), [art. 2](#), [Sch.](#)
- S. 154 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), [art. 2](#), [Sch.](#)

#### Marginal Citations

**M32** 1945 c. 28.

**M33** 1948 c. 23 (N.I.).

## 155 Exceptions from liability under sections 153 <sup>[F128]</sup>, 153A] and 154.

- <sup>[F129]</sup>(1) No liability shall be incurred by a person (“the defendant”) under section 153, 153A or 154 by reason of a discharge or escape of oil or bunker oil from a ship, or of a relevant threat of contamination, if the defendant proves that subsection (2) applies.
- (2) This subsection applies if the discharge or escape or the relevant threat of contamination (as the case may be) —]
- resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
  - was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the <sup>[F130]</sup>defendant], with intent to do damage; or
  - was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

#### Textual Amendments

**F128** Word in [s. 155 heading](#) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), [regs. 1\(2\)](#), [7\(2\)](#) (with [reg. 1\(5\)](#))

**F129** Words in [s. 155](#) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), [regs. 1\(2\)](#), [7\(3\)](#) (with [reg. 1\(5\)](#))

**F130** Word in [s. 155\(2\)\(b\)](#) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), [regs. 1\(2\)](#), [7\(4\)](#) (with [reg. 1\(5\)](#))

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

**C72** S. 155 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), [art. 2](#), [Sch.](#)

S. 155 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#) [art. 2](#), [Sch.](#)

S. 155 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), [art. 2](#), [Sch.](#)

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- S. 155 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**
- S. 155 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- S. 155 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by S.I. 1997/2585, art. 2, **Sch.**
- S. 155 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- S. 155 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- S. 155 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- S. 155 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 155 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch.**
- S. 155 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 155 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 155 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 155 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## 156 Restriction of liability for <sup>F131</sup>pollution from oil or bunker oil].

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

<sup>F132</sup>(a) there is a discharge or escape of oil from a ship to which section 153 applies or there arises a relevant threat of contamination falling within subsection (2) of that section, or]

<sup>F132</sup>(b) there is a discharge or escape of oil falling within section 154(1) or there arises a relevant threat of contamination falling within section 154(2),]

then, whether or not the <sup>F133</sup>registered owner] of the ship in question incurs a liability under section 153 or 154—

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

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

(2) Subsection (1)(ii) above applies to—

(a) any servant or agent of the <sup>F134</sup>registered owner] of the ship;

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

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

(d) any person performing salvage operations with the consent of the <sup>F134</sup>registered owner] of the ship or on the instructions of a competent public authority;

(e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 153 or 154;

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

<sup>F135</sup>(2A) Where, as a result of any occurrence—

(a) there is a discharge or escape of bunker oil falling within section 153A(1), or

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- (b) there arises a relevant threat of contamination falling within section 153A(2), then, whether or not the owner of the ship in question incurs any liability under section 153A—
- (i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it; and
  - (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.
- (2B) Subsection (2A)(ii) applies to—
- (a) any servant or agent of the owner;
  - (b) any person not falling within paragraph (a) above but engaged in any capacity on board the ship or to perform any service for the ship;
  - (c) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
  - (d) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 153A;
  - (e) any servant or agent of a person falling within paragraph (c) or (d).]
- (3) The liability of [<sup>F136</sup>a person under section 153, 153A or 154] for any impairment of the environment shall be taken to be a liability only in respect of—
- (a) any resulting loss of profits, and
  - (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

#### Textual Amendments

- F131** Words in s. 156 heading substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **8(2)** (with reg. 1(5))
- F132** S. 156(1)(a)(b) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **8(3)(a)** (with reg. 1(5))
- F133** Words in s. 156(1) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **8(3)(b)** (with reg. 1(5))
- F134** Words in s. 156(2) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **8(4)** (with reg. 1(5))
- F135** S. 156(2A)(2B) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **8(5)** (with reg. 1(5))
- F136** Words in s. 156(3) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **8(6)** (with reg. 1(5))

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

- C73** S. 156 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#) art. 2, [Sch.](#)
- S. 156 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), [art. 2](#), [Sch.](#)
- S. 156 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), [art. 2](#), [Sch.](#)
- S. 156 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), [art. 2](#), [Sch.](#)
- S. 156 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), [art. 2](#), [Sch.](#)

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S. 156 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, art. 2, **Sch.**

S. 156 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**

S. 156 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**

S. 156 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**

S. 156 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**

S. 156 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**

S. 156 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**

S. 156 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**

S. 156 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**

S. 156 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**

### [<sup>F137</sup>156A Liability under section 153, 153A or 154: supplementary provisions

(1) For the purposes of this Chapter —

- (a) references to a discharge or escape of oil or bunker oil from a ship are references to such a discharge or escape wherever it may occur;
- (b) references to a discharge or escape of oil from a ship include a discharge or escape of oil carried in the bunkers of the ship;
- (c) where more than one discharge or escape of oil or bunker oil results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
- (d) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

(2) The Law Reform (Contributory Negligence) Act 1945<sup>F138</sup> and, in Northern Ireland, the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948<sup>F139</sup> shall apply in relation to any damage or cost for which a person is liable under section 153, 153A or 154, but which is not due to his fault, as if it were due to his fault.]

#### Textual Amendments

**F137** S. 156A inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **9** (with reg. 1(5))

**F138** 1945 c. 48.

**F139** 1948 c. 23 (N.I.).

### *Limitation of liability [<sup>F140</sup>under section 153]*

#### Textual Amendments

**F140** Words in s. 157 cross-heading inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **10** (with reg. 1(5))

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## 157 Limitation of liability under section 153.

- (1) Where, as a result of any occurrence, the [<sup>F141</sup>registered owner] of a ship incurs liability under section 153 by reason of a discharge or escape or by reason of any relevant threat of contamination [<sup>F142</sup>falling within subsection (2) of that section], then (subject to subsection (3) below)—
- (a) he may limit that liability in accordance with the provisions of this Chapter, and
  - (b) if he does so, his liability (being the aggregate of his liabilities under section 153 resulting from the occurrence) shall not exceed the relevant amount.
- (2) In subsection (1) above, “the relevant amount” means—
- (a) in relation to a ship not exceeding 5,000 tons, [<sup>F143</sup>4.51 million] special drawing rights;
  - (b) in relation to a ship exceeding 5,000 tons, [<sup>F144</sup>4.51 million] special drawing rights together with an additional [<sup>F145</sup>631] special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of [<sup>F146</sup>89.77 million] special drawing rights;
- but the Secretary of State may by order make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.
- (3) Subsection (1) above shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the [<sup>F147</sup>registered owner] either with intent to cause any such damage or cost as is mentioned in section 153 or recklessly and in the knowledge that any such damage or cost would probably result.
- (4) For the purposes of this section a ship’s tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Secretary of State.
- (5) Any such order shall, so far as it appears to the Secretary of State to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969.

### Textual Amendments

- F141** Words in s. 157(1) substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **11(a)** (with reg. 1(5))
- F142** Words in s. 157(1) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **11(a)** (with reg. 1(5))
- F143** Words in s. 157(2)(a) substituted (1.11.2003) by The Merchant Shipping (Oil Pollution Compensation Limits) Order 2003 (S.I. 2003/2559), arts. 1, **2(2)(a)**
- F144** Words in s. 157(2)(b) substituted (1.11.2003) by The Merchant Shipping (Oil Pollution Compensation Limits) Order 2003 (S.I. 2003/2559), arts. 1, **2(2)(b)(i)**
- F145** Word in s. 157(2)(b) substituted (1.11.2003) by The Merchant Shipping (Oil Pollution Compensation Limits) Order 2003 (S.I. 2003/2559), arts. 1, **2(2)(b)(ii)**
- F146** Words in s. 157(2)(b) substituted (1.11.2003) by The Merchant Shipping (Oil Pollution Compensation Limits) Order 2003 (S.I. 2003/2559), arts. 1, **2(2)(b)(iii)**
- F147** Words in s. 157(3) substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **11(b)** (with reg. 1(5))

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

- C74** S. 157 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)
- S. 157 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)
- S. 157 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)
- S. 157 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)
- S. 157 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)
- s. 157 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)
- s. 157 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)
- s. 157 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)
- s. 157 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)
- s. 157 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)
- S. 157 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)
- S. 157 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)
- S. 157 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)
- S. 157 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)
- S. 157 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

#### **158 Limitation actions.**

- (1) Where the [<sup>F148</sup>registered owner] of a ship has or is alleged to have incurred a liability under section 153 he may apply to the court for the limitation of that liability to an amount determined in accordance with section 157.
- (2) If on such an application the court finds that the applicant has incurred such a liability [<sup>F149</sup>but has not found that he is not entitled to limit it], the court shall, after determining [<sup>F150</sup>the limit which would apply to the applicant's liability if he were entitled to limit it] and directing payment into court of the amount of that limit—
  - (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
  - (b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

<sup>F151</sup>[(2A) Where—

- (a) a distribution is made under subsection (2)(b) above without the court having found that the applicant is entitled to limit his liability, and
  - (b) the court subsequently finds that the applicant is not so entitled,
- the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.]
- (3) 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



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- 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 Chapter;
- (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.
- (4) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.
- (5) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends—
- (a) by the [<sup>F152</sup>registered owner] or the persons referred to in section 165 as “the insurer” [<sup>F153</sup>(in relation to any insurance or other security provided as mentioned in subsection (1) of that section)]; or
  - (b) by a person who has or is alleged to have incurred a liability, otherwise than under section 153, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of section 185 or 186;
- the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.
- (6) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.
- (7) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the United Kingdom.
- (8) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) above.

#### Textual Amendments

- F148** Words in s. 158(1) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **12(a)** (with reg. 1(5))
- F149** Words in s. 158(2) substituted (17.7.1997) by [1997 c. 28, s. 29\(1\)](#), **Sch. 6 para. 4(2)(a)**; [S.I. 1997/1539, art. 2](#), **Sch.**

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*Changes to legislation: Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- F150** Words in s. 158(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 4(2)(b)**; S.I. 1997/1539, art. 2, **Sch.**
- F151** S. 158(2A) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 4(3)**; S.I. 1997/1539, art. 2, **Sch.**
- F152** Words in s. 158(5)(a) substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **12(b)** (with reg. 1(5))
- F153** Words in s. 158(5)(a) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **12(b)** (with reg. 1(5))

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

- C75** s. 158 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**
- s. 158 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**
- s. 158 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**
- s. 158 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**
- s. 158 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- s. 158 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- s. 158 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- s. 158 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- s. 158 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- s. 158 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 158 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 158 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 158 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 158 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 158 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

#### **159 Restriction on enforcement after establishment of limitation fund.**

- (1) Where the court has found that a person who has incurred a liability under section 153 is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount—
- (a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
  - (b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs (or, in Scotland, expenses);
- if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 158 had been taken.
- (2) In the application of this section to Scotland, any reference (however expressed) to release from arrest shall be construed as a reference to the recall of an arrestment.

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

- C76** s. 159 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
s. 159 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
s. 159 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
s. 159 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
s. 159 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
s. 159 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)  
s. 159 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)  
s. 159 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)  
s. 159 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)  
s. 159 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)  
S. 159 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)  
S. 159 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)  
S. 159 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)  
S. 159 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)  
S. 159 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

#### 160 Concurrent liabilities of owners and others.

Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the [<sup>F154</sup>registered owner] of the ship incurs a liability under section 153 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section then, if—

- (a) the [<sup>F154</sup>registered owner] has been found, in proceedings under section 158 to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and
- (b) the other person is entitled to limit his liability in connection with the ship by virtue of section 185 or 186;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the [<sup>F154</sup>registered owner] paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

#### Textual Amendments

- F154** Words in s. 160 substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\), regs. 1\(2\), 13 \(with reg. 1\(5\)\)](#)

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

- C77** s. 160 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
s. 160 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
s. 160 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)

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- s. 160 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)
- s. 160 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)
- s. 160 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)
- s. 160 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)
- s. 160 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)
- s. 160 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)
- s. 160 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)
- S. 160 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)
- S. 160 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)
- S. 160 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)
- S. 160 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)
- S. 160 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

## 161 Establishment of limitation fund outside United Kingdom.

Where the events resulting in the liability of any person under section 153 also resulted in a corresponding liability under the law of another Liability Convention country sections 159 and 160 shall apply as if the references to sections 153 and 158 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

### Modifications etc. (not altering text)

- C78**
- s. 161 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)
  - s. 161 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)
  - s. 161 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)
  - s. 161 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)
  - s. 161 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)
  - s. 161 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)
  - s. 161 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)
  - s. 161 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)
  - s. 161 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)
  - s. 161 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)
  - S. 161 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)
  - S. 161 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)
  - S. 161 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)
  - S. 161 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)

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S. 161 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

[<sup>F155</sup>Limitation period for claims under this Chapter]

#### Textual Amendments

**F155** S. 162 cross-heading inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **14** (with reg. 1(5))

## 162 Extinguishment of claims.

No action to enforce a claim in respect of a liability incurred under section 153 [<sup>F156</sup>, 153A] or 154 shall be entertained by any court in the United Kingdom unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

#### Textual Amendments

**F156** Word in s. 162 inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **15** (with reg. 1(5))

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

- C79** s. 162 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
s. 162 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
s. 162 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
s. 162 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
s. 162 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**  
s. 162 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**  
s. 162 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**  
s. 162 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
s. 162 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
s. 162 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**  
S. 162 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 162 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
S. 162 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
S. 162 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
S. 162 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

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### *Compulsory insurance*

#### **163 Compulsory insurance against liability for pollution.**

- (1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) below shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in regulations made by the Secretary of State.
- (2) The ship shall not enter or leave a port in the United Kingdom or arrive at or leave a terminal in the territorial sea of the United Kingdom nor, if the ship is a United Kingdom ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) below and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).
- (3) The certificate must be—
  - (a) if the ship is a United Kingdom ship, a certificate issued by the Secretary of State;
  - (b) if the ship is registered in a Liability Convention country other than the United Kingdom, a certificate issued by or under the authority of the government of the other Liability Convention country; and
  - (c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Secretary of State or by or under the authority of the government of any Liability Convention country other than the United Kingdom.
- (4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any officer of customs and excise or of the Secretary of State and, if the ship is a United Kingdom ship, to any proper officer.
- (5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) above, the master or [<sup>F157</sup>registered owner] shall be liable [<sup>F158</sup>on conviction on indictment to a fine, or on summary conviction to a fine not exceeding £50,000][<sup>F158</sup>on summary conviction, or on conviction on indictment, to a fine].
- (6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4) above, the master shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) If a ship attempts to leave a port in the United Kingdom in contravention of this section the ship may be detained.

#### **Textual Amendments**

**F157** Words in s. 163(5) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **16** (with reg. 1(5))

**F158** Words in s. 163(5) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 27(10)** (with reg. 5(1))

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

- C80** s. 163 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
s. 163 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)  
s. 163 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)  
S. 163 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)  
S. 163 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)  
S. 163 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)  
S. 163 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)  
S. 163 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

#### [<sup>F159</sup>163A] **Compulsory insurance against liability for pollution from bunker oil**

- (1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) below shall apply to any ship having a gross tonnage greater than 1,000 tons calculated in the manner prescribed by an order made by the Secretary of State under paragraph 5(2) of Part II of Schedule 7.
- (2) The ship shall not enter or leave a port in the United Kingdom or arrive at or leave a terminal in the territorial sea of the United Kingdom nor, if the ship is a United Kingdom ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force—
  - (a) a contract of insurance or other security in respect of the ship satisfying the requirements of Article 7 of the Bunkers Convention; and
  - (b) a certificate complying with the provisions of subsection (3) showing that there is in force in respect of the ship a contract of insurance or other security satisfying those requirements.
- (3) The certificate must be—
  - (a) if the ship is a United Kingdom ship, a certificate issued by the Secretary of State;
  - (b) if the ship is registered in a Bunkers Convention country other than the United Kingdom, a certificate issued by or under the authority of the government of the other Bunkers Convention country; and
  - (c) if the ship is registered in a country which is not a Bunkers Convention country, a certificate issued by the Secretary of State or by or under the authority of the government of any Bunkers Convention country other than the United Kingdom.

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- (4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any officer of Revenue and Customs or of the Secretary of State and, if the ship is a United Kingdom ship, to any proper officer.
- (5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) by reason of there being no certificate in force as mentioned in that subsection, the master or registered owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding the statutory maximum.
- (6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4), the master shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) If a ship attempts to leave a port in the United Kingdom in contravention of subsection (2), the ship may be detained.
- (8) Any document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of (or otherwise in connection with) proceedings for an offence under subsection (5) against the company as registered owner of the ship shall be treated as duly served on the company if the document is served on the master of the ship.  
  

[<sup>F160</sup>In this subsection “foreign company” means a company or body which is not one to which section 1139 of the Companies Act 2006 applies so as to authorise service of the document in question.]
- (9) Any person authorised to serve any document for the purposes of the institution of (or otherwise in connection with) the institution of proceedings for an offence under this section shall, for that purpose, have the right to go on board the ship in question.
- (10) In the case of a ship of which, at any relevant time, the tonnage has not been and cannot be ascertained in the manner set out in subsection (1), the best available evidence shall be used in calculating the tonnage of the ship in accordance with any order under paragraph 5(2) of Part II of Schedule 7.]

#### **Textual Amendments**

**F159** S. 163A inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), 17 (with reg. 1(5))

**F160** Words in s. 163A(8) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 152(3)** (with art. 10)

#### **164 Issue of certificate by Secretary of State.**

- (1) Subject to subsection (2) below, if the Secretary of State is satisfied, on the application for such a certificate as is mentioned in [<sup>F161</sup>section 163(2)] in respect of a United Kingdom ship or a ship registered in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying



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the requirements of Article VII of the Liability Convention, the Secretary of State shall issue such a certificate to the [<sup>F162</sup>registered owner].

[<sup>F163</sup>(1A) Subject to subsection (2) below, if the Secretary of State is satisfied, on the application for such a certificate as is mentioned in section 163A(2) in respect of a United Kingdom ship or a ship registered in any country which is not a Bunkers Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article 7 of the Bunkers Convention, the Secretary of State shall issue such a certificate to the registered owner.]

[<sup>F164</sup>(2) The Secretary of State may refuse the certificate if he is of the opinion that there is a doubt whether—

- (a) the person providing the insurance or other security will be able to meet his obligations thereunder; or
- (b) the insurance or other security will cover the registered owner's liability under section 153, or the owner's liability under section 153A, as the case may be.]

(3) The Secretary of State may make regulations providing for the cancellation and delivery up of a certificate under this section in such circumstances as may be prescribed by the regulations.

(4) If a person required by regulations under subsection (3) above to deliver up a certificate fails to do so he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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

#### Textual Amendments

- F161** Words in s. 164(1) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **18(2)(a)** (with reg. 1(5))
- F162** Words in s. 164(1) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **18(2)(b)** (with reg. 1(5))
- F163** S. 164(1A) inserted (15.7.2006 for specified purposes, 21.11.2008 in so far as not already in force) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2)(4), **18(3)** (with reg. 1(5))
- F164** S. 164(2) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **18(4)** (with reg. 1(5))

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

- C81** s. 164 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, [Sch.](#)
- s. 164 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, [Sch.](#)
- s. 164 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, [Sch.](#)
- s. 164 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, [Sch.](#)
- s. 164 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, [Sch.](#)
- s. 164 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, [Sch.](#)

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- s. 164 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), [art. 2](#), [Sch.](#)
- s. 164 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), [art. 2](#), [Sch.](#)
- s. 164 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), [art. 2](#), [Sch.](#)
- s. 164 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), [art. 2](#), [Sch.](#)
- S. 164 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 164 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 164 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), [art. 2](#), [Sch.](#)
- S. 164 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), [art. 2](#), [Sch.](#)
- S. 164 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), [art. 2](#), [Sch.](#)

## 165 Rights of third parties against insurers.

- (1) Where it is alleged that the [<sup>F165</sup>registered owner] of a ship has incurred a liability under section 153 as a result of any discharge or escape of oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section [<sup>F166</sup>163(2)] related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security <sup>F167</sup>....
- <sup>F168</sup>(1A) Where it is alleged that the owner of a ship has incurred a liability under section 153A as a result of any discharge or escape of bunker oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 163A(2) related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security.
- (1B) In the following provisions of this section, “the insurer” means the person who provided the insurance or other security referred to in subsection (1) or subsection (1A), as the case may be.]
- (2) In any proceedings brought against the insurer by virtue of this section [<sup>F169</sup>in respect of liability under section 153] it shall be a defence (in addition to any defence affecting the [<sup>F170</sup>registered owner's] liability) to prove that the discharge or escape, or (as the case may be) the threat of contamination, was due to the wilful misconduct of the [<sup>F171</sup>registered owner] himself.
- (3) The insurer may limit his liability in respect of claims [<sup>F172</sup>in respect of liability under section 153 which are] made against him by virtue of this section in like manner and to the same extent as the [<sup>F173</sup>registered owner] may limit his liability [<sup>F174</sup>under section 157] but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the [<sup>F173</sup>registered owner] as mentioned in section 157(3).
- (4) Where the [<sup>F175</sup>registered owner] and the insurer each apply to the court for the limitation of his liability [<sup>F176</sup>(in relation to liability under section 153)] any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.
- <sup>F177</sup>(4A) In any proceedings brought against the insurer by virtue of this section in respect of liability under section 153A it shall be a defence (in addition to any defence affecting

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the owner's liability) to prove that the discharge or escape, or (as the case may be) the threat of contamination, was due to the wilful misconduct of the owner himself.

- (4B) The insurer may limit his liability in respect of claims in respect of liability under section 153A which are made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability by virtue of section 185; but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from any act or omission mentioned in Article 4 of the Convention set out in Part I of Schedule 7.
- (4C) Where the owner and the insurer each apply to the court for the limitation of his liability (in relation to liability under section 153A) any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.]
- (5) The <sup>M34</sup>Third Parties (Rights against Insurers) Act 1930 and the <sup>M35</sup>Third Parties (Rights against Insurers) Act (Northern Ireland) 1930 shall not apply in relation to any contract of insurance to which such a certificate as is mentioned in section 163 [<sup>F178</sup>or 163A] relates.

#### Textual Amendments

- F165** Words in s. 165(1) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(2)(a)** (with reg. 1(5))
- F166** Word in s. 165(1) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(2)(b)** (with reg. 1(5))
- F167** Words in s. 165(1) omitted (21.11.2008) by virtue of [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(2)(c)** (with reg. 1(5))
- F168** S. 165(1A)(1B) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(3)** (with reg. 1(5))
- F169** Words in s. 165(2) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(4)(a)** (with reg. 1(5))
- F170** Words in s. 165(2) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(4)(b)** (with reg. 1(5))
- F171** Words in s. 165(2) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(4)(c)** (with reg. 1(5))
- F172** Words in s. 165(3) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(5)(a)** (with reg. 1(5))
- F173** Words in s. 165(3) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(5)(b)** (with reg. 1(5))
- F174** Words in s. 165(3) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(5)(c)** (with reg. 1(5))
- F175** Words in s. 165(4) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(6)(a)** (with reg. 1(5))
- F176** Words in s. 165(4) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(6)(b)** (with reg. 1(5))
- F177** S. 165(4A)-(4C) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(7)** (with reg. 1(5))
- F178** Words in s. 165(5) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **19(8)** (with reg. 1(5))

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

- C82** s. 165 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, [Sch.](#)  
s. 165 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, [Sch.](#)

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- s. 165 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**
- s. 165 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**
- s. 165 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- s. 165 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- s. 165 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- s. 165 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- s. 165 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- s. 165 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 165 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 165 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 165 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 165 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 165 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

#### Marginal Citations

**M34** 1930 c. 25.

**M35** 1930 c. 9 (N.I.).

### *Supplementary*

#### **166 Jurisdiction of United Kingdom courts and registration of foreign judgments.**

- (1) Paragraph 1(1)(d) of Schedule 1 to the <sup>M36</sup>Administration of Justice Act 1956 (Admiralty jurisdiction in claims for damage done by ships) shall be construed as extending to any claim in respect of a liability incurred under this Chapter, and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim.
- (2) Where—
- (a) [<sup>F179</sup>there is a discharge or escape of oil from a ship to which section 153 applies, or a discharge or escape of oil falling within section 154(1), which] does not result in any damage caused by contamination in the territory of the United Kingdom and no measures are reasonably taken to prevent or minimise such damage in that territory, or
  - (b) any relevant threat of contamination [<sup>F180</sup>falling within section 153(2) or 154(2)] arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the United Kingdom,
- no court in the United Kingdom shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—
- (i) against the [<sup>F181</sup>registered owner] of the ship, or
  - (ii) against any person to whom section 156(1)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

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- (3) In subsection (2) above, “relevant damage or cost” means—
- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country,
  - (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country; or
  - (c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 156(2)(e) shall have effect for the purposes of subsection (2)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.

[<sup>F182</sup>(3A) Where—

- (a) there is a discharge or escape of bunker oil falling within section 153A(1) which does not result in any damage caused by contamination in the territory of the United Kingdom and no measures are reasonably taken to prevent or minimise such damage in that territory, or
- (b) any relevant threat of contamination falling within section 153A(2) arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the United Kingdom,

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

- (i) against the owner of the ship, or
- (ii) against any person to whom section 156(2A)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(3B) In subsection (3A) above, “relevant damage or cost” means—

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

and section 156(2B)(d) shall have effect for the purpose of subsection (3A)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.]

[<sup>F183</sup>(4) Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this section, to—

- (a) any judgment given by a court in a Liability Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153; and

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- (b) any judgment given by a court in a Bunkers Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153A;

and in its application to any such judgment that Part shall have effect with the omission of section 4(2) and (3) of that Act.]

#### Textual Amendments

- F179** Words in s. 166(2)(a) substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **20(2)(a)** (with reg. 1(5))
- F180** Words in s. 166(2)(b) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **20(2)(b)** (with reg. 1(5))
- F181** Words in s. 166(2)(i) substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **20(2)(c)** (with reg. 1(5))
- F182** S. 166(3A)(3B) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **20(3)** (with reg. 1(5))
- F183** S. 166(4) substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **20(4)** (with reg. 1(5))

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

- C83** s. 166 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**
- s. 166 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**
- s. 166 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**
- s. 166 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**
- s. 166 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- s. 166 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- s. 166 extended (with modifications) to the Sovereign Bases Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- s. 166 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- s. 166 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- s. 166 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 166 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 166 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 166 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 166 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 166 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

#### Marginal Citations

- M36** 1956 c. 46.

## 167 Government ships.

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

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- [<sup>F184</sup>(2) In relation to a ship owned by a State and for the time being used for commercial purposes—
- (a) it shall be sufficient compliance with section 163(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of that Convention; and
  - (b) it shall be sufficient compliance with section 163A(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article 1 of the Bunkers Convention will be met up to the limits set out in Chapter II of the Convention in Part I of Schedule 7.]
- (3) Every Liability Convention State shall, for the purposes of any proceedings brought in a court in the United Kingdom to enforce a claim in respect of a liability incurred under section 153, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, or in Scotland the execution of diligence, against the property of any State.
- [<sup>F185</sup>(4) Every Bunkers Convention State shall, for the purposes of any proceedings brought in a court in the United Kingdom to enforce a claim in respect of a liability incurred under section 153A, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, or in Scotland, the execution of diligence, against the property of any State.]

#### Textual Amendments

- F184** S. 167(2) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **21(2)** (with reg. 1(5))
- F185** S. 167(4) added (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **21(3)** (with reg. 1(5))

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

- C84** s. 167 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**
- s. 167 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**
- s. 167 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**
- s. 167 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**
- s. 167 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, **Sch.**
- s. 167 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, **Sch.**
- s. 167 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, **Sch.**
- s. 167 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), art. 2, **Sch.**

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*Changes to legislation: Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- s. 167 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- s. 167 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 167 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 167 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 167 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 167 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 167 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**

## 168 Limitation of liability under section [<sup>F186</sup>153A or] 154.

For the purposes of section 185 any liability incurred under [<sup>F187</sup>section 153A or 154] shall be deemed to be a liability to damages 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 7.

### Textual Amendments

- F186** Words in s. 168 heading inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **22(a)** (with reg. 1(5))
- F187** Words in s. 168 substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **22(b)** (with reg. 1(5))

### Modifications etc. (not altering text)

- C85** s. 168 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**
- s. 168 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**
- s. 168 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**
- s. 168 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**
- s. 168 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- s. 168 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- s. 168 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- s. 168 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- s. 168 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- s. 168 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 168 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 168 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 168 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 168 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 168 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## 169 Saving for recourse actions.

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



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

- C86** s. 169 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), [art. 2](#), [Sch.](#)  
s. 169 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), [art. 2](#), [Sch.](#)  
s. 169 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), [art. 2](#), [Sch.](#)  
s. 169 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), [art. 2](#), [Sch.](#)  
s. 169 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), [art. 2](#), [Sch.](#)  
s. 169 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), [art. 2](#), [Sch.](#)  
s. 169 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), [arts. 2, 3](#), [Sch.](#)  
s. 169 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), [art. 2](#), [Sch.](#)  
s. 169 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), [art. 2](#), [Sch.](#)  
s. 169 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), [art. 2](#), [Sch.](#)  
S. 169 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), [arts. 2, 3](#), [Sch. 1](#)  
S. 169 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), [arts. 2, 3](#), [Sch. 1](#)  
S. 169 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), [art. 2](#), [Sch.](#)  
S. 169 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), [art. 2](#), [Sch.](#)  
S. 169 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), [art. 2](#), [Sch.](#)

## 170 Interpretation.

(1) In this Chapter [<sup>F188</sup>(except this subsection)]—

[<sup>F189</sup>“bunker oil” means any hydrocarbon mineral oil (including lubricating oil) which is carried by a ship and used or intended to be used for the operation or propulsion of that ship and any residues of such oil;]

“the court” means the High Court or, in Scotland, the Court of Session;

“damage” includes loss;

“oil” means persistent hydrocarbon mineral oil [<sup>F190</sup>, except in the term “bunker oil”];

“owner” [<sup>F191</sup>has the meaning given by section 153A(7);

“registered owner” means] the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“relevant threat of contamination” [<sup>F192</sup>includes (unless a contrary intention appears)—

- (a) a relevant threat of contamination falling within section 153(2) (as defined in section 153(2A));
- (b) a relevant threat of contamination falling within section 153A(2) (as defined in section 153A(4)); and
- (c) a relevant threat of contamination falling within section 154(2) (as defined in section 154(2B)); and

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“ship” (subject to section 154(5)) means any sea-going vessel or sea-borne craft of any type whatsoever.

- (2) In relation to any damage or cost resulting from the discharge or escape of any oil [<sup>F193</sup>or bunker oil] from a ship, or from a relevant threat of contamination, references in this Chapter to the owner [<sup>F194</sup>or the registered owner] of the ship are references to the owner [<sup>F195</sup>or the registered owner (as the case may be)] at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.
- (3) References in this Chapter in its application to Scotland—
- (a) to payment into court, shall be construed as references to the payment to the Accountant of Court for Consignation (within the meaning of the Court of Session Consignations (Scotland) Act 1895; and
  - (b) to costs, shall be construed as references to expenses.
- (4) References in this Chapter to the territory of any country include the territorial sea of that country and—
- (a) in the case of the United Kingdom, any area [<sup>F196</sup>specified by virtue of section 129(2)(b)] and
  - (b) in the case of any other Liability Convention country [<sup>F197</sup>or Bunkers Convention country], the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by that State in question in accordance with international law.

#### Textual Amendments

- F188** Words in s. 170(1) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **23(2)(a)** (with reg. 1(5))
- F189** Words in s. 170(1) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **23(2)(b)** (with reg. 1(5))
- F190** Words in s. 170(1) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **23(2)(c)** (with reg. 1(5))
- F191** Words in s. 170(1) substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **23(2)(d)** (with reg. 1(5))
- F192** Words in s. 170(1) substituted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **23(2)(e)** (with reg. 1(5))
- F193** Words in s. 170(2) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **23(3)(a)** (with reg. 1(5))
- F194** Words in s. 170(2) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **23(3)(b)** (with reg. 1(5))
- F195** Words in s. 170(2) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **23(3)(c)** (with reg. 1(5))
- F196** Words in s. 170(4)(a) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 5**; S.I. 1997/1539, art. 2, **Sch.**
- F197** Words in s. 170(4)(b) inserted (21.11.2008) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **23(4)** (with reg. 1(5))

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

- C87** s. 170 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**

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- s. 170 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, Sch.
- s. 170 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, Sch.
- s. 170 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, Sch.
- s. 170 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, Sch.
- s. 170 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, Sch.
- s. 170 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, Sch.
- s. 170 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, Sch.
- s. 170 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, Sch.
- s. 170 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, Sch.
- S. 170 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1
- S. 170 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1
- S. 170 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, Sch.
- S. 170 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, Sch.
- S. 170 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, Sch.

## 171 Transitory text of this Chapter and power to make transitional provisions.

- (1) Until such day as the Secretary of State may by order appoint, the provisions set out in Schedule 4 as Chapter III shall have effect instead of the foregoing provisions of this Chapter; and references in that Schedule to a section whose number is included in that Schedule is a reference to the section so included.
- (2) Notwithstanding subsection (1) above, Her Majesty may by Order in Council make such provision as appears to Her Majesty to be appropriate in connection with the implementation of any transitional provisions contained in the 1992 Protocol or the Conventions which they amend; and any such Order may in particular provide, in relation to occurrences of any description specified in the Order—
  - (a) for specified provisions of this Chapter, whether as contained in this Chapter or in the Chapter III set out in Schedule 4, to have effect;
  - (b) for any such provisions to have effect subject to specified modifications.
- (3) In subsection (2) above—
  - “the 1992 Protocol” means the Protocol of 1992 to amend the International Convention for Oil Pollution Damage 1969 signed in London on 27th November 1992; and
  - “specified” means specified in the Order.

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### Subordinate Legislation Made

- P1** S. 171(1) power exercised (30.5.1996) by S.I. 1996/1210, art. 2

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## CHAPTER IV

### INTERNATIONAL OIL POLLUTION

#### COMPENSATION FUND

##### *Preliminary*

### 172 Meaning of the “Liability Convention”, “the Fund Convention” and related expressions.

(1) In this Chapter—

- (a) “the Liability Convention” has the same meaning as in Chapter III of this Part;
- (b) “the Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;
- (c) “the Fund” means the International Fund established by the Fund Convention;  
F198  
...
- (d) “Fund Convention country” means a country in respect of which the Fund Convention is in force.
- [F199(e) “the Supplementary Fund Protocol” means the Protocol of 2003 to the Fund Convention;
- (f) “the Supplementary Fund” means the International Supplementary Fund established by the Supplementary Fund Protocol; and
- (g) “Supplementary Fund Protocol country” means a country in respect of which the Supplementary Fund Protocol is in force.]

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

[F200(3) Subsection (2) applies in relation to the Supplementary Fund Protocol as it applies in relation to the Fund Convention.]

#### **Textual Amendments**

- F198** Word in s. 172(1)(c) repealed (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **3(a)**
- F199** S. 172(1)(e)-(g) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **3(a)**
- F200** S. 172(3) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **3(b)**

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

- C88** S. 172 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**
- S. 172 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**
- S. 172 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**
- S. 172 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**

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- S. 172 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- S. 172 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- S. 172 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- S. 172 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- S. 172 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- S. 172 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 172 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 172 extended (with modification) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 172 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 172 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 172 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

### *Contributions to Fund*

#### **173 Contributions by importers of oil and others.**

- (1) Contributions shall be payable to the Fund [<sup>F201</sup>and to the Supplementary Fund] in respect of oil carried by sea to ports or terminal installations in the United Kingdom otherwise than on a voyage only within its national waters.
- (2) Subsection (1) above applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.
- (3) Contributions shall also be payable [<sup>F202</sup>—
  - (a)] to the Fund in respect of oil when first received in any installation in the United Kingdom after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country [<sup>F203</sup>; and
  - (b) to the Supplementary Fund in respect of oil when first received in any installation in the United Kingdom after having been carried by sea and discharged in a port or terminal installation in a country which is not a Supplementary Fund Protocol country.]
- (4) The person liable to pay contributions is—
  - (a) in the case of oil which is being imported into the United Kingdom, the importer, and
  - (b) otherwise, the person by whom the oil is received.
- (5) A person shall not be liable to make contributions in respect of the oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.
- (6) For the purpose of subsection (5) above—
  - (a) all the members of a group of companies shall be treated as a single person, and
  - (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.
- (7) The contributions payable by a person for any year shall—

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- (a) be of such amount as may be determined [<sup>F204</sup>—
  - (i)] by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund
  - (ii) [<sup>F205</sup>in the case of contributions to the Supplementary Fund, by the Director of the Supplementary Fund under Article 11 of the Supplementary Fund Protocol and notified to that person by the Supplementary Fund;]
- (b) be payable in such instalments, becoming due at such times, as may be so notified to him;

and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund [<sup>F206</sup>or the Assembly of the Supplementary Fund (as the case may be)] , until it is paid.

- (8) The Secretary of State may by regulations impose on persons who are or may be liable to pay contributions under this section obligations to give security for payment to the Secretary of State, or the Fund.
- (9) Regulations under subsection (8) above—
  - (a) may contain such supplemental or incidental provisions as appear to the Secretary of State expedient, and
  - (b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding level 5 on the standard scale, or such lower limit as may be specified in the regulations.

- (10) In this section and in section 174, unless the context otherwise requires—

“company” means a body incorporated under the law of the United Kingdom, or of any other country;

“group” in relation to companies, means a holding company and its subsidiaries as defined by [<sup>F207</sup>section 1159 of the Companies Act 2006], subject, in the case of a company incorporated outside the United Kingdom, to any necessary modifications of those definitions;

“importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;

“oil” means crude oil and fuel oil, and

- (a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes—
  - (i) crude oils from which distillate fractions have been removed, and
  - (ii) crude oils to which distillate fractions have been added,
- (b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D396-69)”, or heavier,

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

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### Textual Amendments

- F201** Words in s. 173(1) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(2)**
- F202** Words in s. 173(3) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(3)(a)**
- F203** S. 173(3)(b) and word inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(3)(b)**
- F204** Words in s. 173(7)(a) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(4)(a)**
- F205** Words in s. 173(7)(a) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(4)(b)**
- F206** Words in s. 173(7)(a) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(4)(c)**
- F207** Words in s. 173(10) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 152(4)** (with art. 10)

### Modifications etc. (not altering text)

- C89** S. 173 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, **Sch.**
- S. 173 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, **Sch. 1**
- S. 173 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, **Sch. 1**
- S. 173 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), art. 2, **Sch.**
- S. 173 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), art. 2, **Sch.**

## 174 Power to obtain information.

- (1) For the purpose of transmitting to the Fund [<sup>F208</sup>or the Supplementary Fund] the names and addresses of the persons who under section 173 are liable to make contributions to the Fund [<sup>F208</sup>or the Supplementary Fund] for any year, and the quantity of oil in respect of which they are so liable, the Secretary of State may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

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- (2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 173(6).
- (3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.
- (4) In proceedings by the Fund [<sup>F209</sup>or the Supplementary Fund] against any person to recover any amount due under section 173, particulars contained in any list transmitted by the Secretary of State to [<sup>F210</sup>either of those Funds] shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.
- (5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connection with the execution of this section, then, unless the disclosure is made—
- (a) with the consent of the person from whom the information was obtained, or
  - (b) in connection with the execution of this section, or
  - (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,
- he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A person who—
- (a) refuses or wilfully neglects to comply with a notice under this section, or
  - (b) in furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,
- shall be liable—
- (i) on summary conviction, to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph (a) above and not exceeding the statutory maximum in the case of an offence under paragraph (b) above, and
  - (ii) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding twelve months, or to both.

#### Textual Amendments

**F208** Words in s. 174(1) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **5(2)**

**F209** Words in s. 174(4) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **5(3)(a)**

**F210** Words in s. 174(4) substituted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **5(3)(b)**

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

**C90** S. 174 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**

S. 174 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**

S. 174 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**



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- S. 174 extended (with modifications) to the British Indian Territory (30.11.1997) by [S.I. 1997/2583](#), [art. 2](#), [Sch.](#)
- S. 174 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), [art. 2](#), [Sch.](#)
- S. 174 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 174 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), [art. 2](#), [Sch.](#)
- S. 174 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), [art. 2](#), [Sch.](#)
- S. 174 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), [art. 2](#), [Sch.](#)
- S. 174 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), [art. 2](#), [Sch.](#)
- S. 174 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 174 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 174 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), [art. 2](#), [Sch.](#)
- S. 174 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), [art. 2](#), [Sch.](#)
- S. 174 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), [art. 2](#), [Sch.](#)

### *Compensation for persons suffering pollution damage*

## **175 Liability of the Fund.**

- (1) The Fund shall be liable for pollution damage in the territory of the United Kingdom if the person suffering the damage has been unable to obtain full compensation under section 153—
  - (a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused—
    - (i) resulted from an exceptional, inevitable and irresistible phenomenon, or
    - (ii) was due wholly to anything done or omitted to be done by another person (not being a servant or agent of the owner) with intent to do damage, or
    - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible, (and because liability is accordingly wholly displaced by section 155), or
  - (b) because the owner or guarantor liable for the damage cannot meet his obligations in full, or
  - (c) because the damage exceeds the liability under section 153 as limited by section 157.
- (2) Subsection (1) above shall apply with the substitution for the words “United Kingdom” of the words “a Fund Convention country” where—
  - (a) the headquarters of the Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country, or
  - (b) the incident has caused pollution damage in the territory of the United Kingdom and of another Fund Convention country, and proceedings under the

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Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the United Kingdom.

- (3) Where the incident has caused pollution damage in the territory of the United Kingdom and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter III of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.
- (4) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country and the Fund is liable for that pollution damage by virtue of subsection (2)(a) above, references in this section to the provisions of Chapter III of this Part shall be treated as references to the corresponding provisions of the law of the country in which those proceedings were brought.
- (5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.
- (6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 153.
- (7) The Fund shall incur no obligation under this section if—
  - (a) it proves that the pollution damage—
    - (i) resulted from an act of war, hostilities, civil war or insurrection, or
    - (ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service, or
  - (b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.
- (8) If the Fund proves that the pollution damage resulted wholly or partly—
  - (a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage, or
  - (b) from the negligence of that person,
 the Fund may (subject to subsection (10) below) be exonerated wholly or partly from its obligations to pay compensation to that person.
- (9) Where the liability under section 153 in respect of the pollution damage is limited to any extent by subsection (8) of that section, the Fund shall (subject to subsection (10) below) be exonerated to the same extent.
- (10) Subsections (8) and (9) above shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

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

- C91** S. 175 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
S. 175 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
S. 175 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
S. 175 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
S. 175 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)  
S. 175 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)  
S. 175 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)  
S. 175 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)  
S. 175 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)  
S. 175 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)  
S. 175 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)  
S. 175 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)  
S. 175 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)  
S. 175 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

#### **176 Limitation of Fund's liability under section 175.**

- (1) The Fund's liability under section 175 shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund and the text of which is set out in Part I of Schedule 5), and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Chapter.
- (2) A certificate given by the Director of the Fund stating that sub-paragraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 175 shall be conclusive evidence for the purposes of this Chapter that it is so applicable.
- (3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention a court giving judgment against the Fund in proceedings under section 175 shall notify the Fund, and—
  - (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,
  - (b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and
  - (c) in the latter case the judgment shall be enforceable only for the reduced amount.
- (4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) 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

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sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

- (i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident, or
- (ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and
- (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 relevant day, or
  - (ii) that no sum has been so fixed for the relevant 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 relevant day,

shall be conclusive evidence of those matters for the purposes of this Chapter.

- (5) The Secretary of State may by order make such amendments of this section and Part I of Schedule 5 as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the provisions set out in that Schedule.
- (6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) above shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

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

- C92** S. 176 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)
- S. 176 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)
- S. 176 extended (with modifications) to British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)
- S. 176 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)
- S. 176 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)
- S. 176 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oeno Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)
- S. 176 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)
- S. 176 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)
- S. 176 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)
- S. 176 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)
- S. 176 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)
- S. 176 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)
- S. 176 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)
- S. 176 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)
- S. 176 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

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## [<sup>F211</sup>176A] Liability of the Supplementary Fund

- (1) The Supplementary Fund shall be liable for pollution damage in the territory of the United Kingdom in accordance with the Supplementary Fund Protocol in the circumstances mentioned in paragraph 1 of Article 4 of that Protocol (cases where full compensation cannot be obtained because of the limit imposed by paragraph 4 of Article 4 of the Fund Convention).

The text of paragraph 1 of Article 4 of the Supplementary Fund Protocol is set out in Schedule 5ZA.

- (2) Subsection (1) shall apply with the substitution for the words “the United Kingdom” of the words “a Supplementary Fund Protocol country” where—
- (a) the headquarters of the Supplementary Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention or the Fund Convention for compensation for the pollution damage have been brought in a country which is not a Supplementary Fund Protocol country, or
  - (b) the incident has caused pollution damage in the territory of the United Kingdom and of another Supplementary Fund Protocol country, and proceedings under the Liability Convention or the Fund Convention for compensation for the pollution damage have been brought in a country which is not a Supplementary Fund Protocol country or in the United Kingdom.
- (3) Nothing in this section applies to pollution damage resulting from an incident if—
- (a) in the case of a single occurrence, it took place before the day on which the Supplementary Fund Protocol enters into force as respects the United Kingdom; or
  - (b) in the case of a series of occurrences having the same origin, the first of those occurrences took place before that day.

### Textual Amendments

**F211** Ss. 176A, 176B inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), 6

## 176B Limitation of the Supplementary Fund’s liability under section 176A

- (1) The Supplementary Fund’s liability under section 176A shall be subject to—
- (a) paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (which impose an overall limit on the liabilities of the Supplementary Fund); and
  - (b) paragraphs 2 and 3 of Article 15 of the Supplementary Fund Protocol (which prevent the Supplementary Fund from paying compensation temporarily and permanently where obligations to communicate information to the Director under paragraph 1 of Article 13 and paragraph 1 of Article 15 have not been met).

The text of paragraphs 2 and 3 of Article 4, paragraph 1 of Article 13 and paragraphs 1, 2 and 3 of Article 15 of the Supplementary Fund Protocol is set out in Schedule 5ZA.

- (2) For the purpose of giving effect to paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol a court giving judgment against the Supplementary Fund in proceedings under section 176A shall notify the Supplementary Fund, and—

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- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,
  - (b) that leave shall not be given unless and until the Supplementary Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and
  - (c) in the latter case the judgment shall be enforceable only for the reduced amount.
- (3) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (2) 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 relevant date, namely the date referred to in paragraph 2(b) of Article 4 of the Supplementary Fund Protocol, or
    - (ii) if no sum has been so fixed for the relevant date, the last day before that date for which a sum has been so fixed; and
  - (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 relevant date, or
    - (ii) that no sum has been so fixed for the relevant date 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 relevant date,
 shall be conclusive evidence of those matters for the purposes of this Chapter.
- (4) Any document purporting to be such a certificate as is mentioned in subsection (3) (b) shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.]

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**Textual Amendments**

**F211** Ss. 176A, 176B inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), 6

*Supplemental*

*Extinguishment of claims.*

**177 Jurisdiction and effect of judgments.**

- (1) Paragraph 1(1)(d) of Schedule 1 to the <sup>M37</sup>Administration of Justice Act 1956 (Admiralty jurisdiction in claims for damage done by ships) shall be construed as extending to any claim in respect of a liability falling on the Fund [<sup>F212</sup>or the Supplementary Fund] under this Chapter; and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim.

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*Status:* Point in time view as at 01/04/2015. This version of this Act contains provisions that are prospective.  
*Changes to legislation:* Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- (2) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 153<sup>F213</sup>...
- (a) [<sup>F213</sup>the notice shall be deemed to have been given to the Supplementary Fund as well; and
- (b) any judgment given in the proceedings shall, after it has become final and enforceable, become binding on the Fund and the Supplementary Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund or the Supplementary Fund even if it has not intervened in the proceedings]
- (3) Where a person incurs a liability under the law of a Fund Convention country corresponding to Chapter III of this Part for damage which is partly in the territory of the United Kingdom, subsection (2) above shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.
- [<sup>F214</sup>(4) Subject to subsections (5) and (6), Part 1 of the Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this subsection, to—
- (a) any judgment given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 175; and
- (b) any judgment given by a court in a Supplementary Fund Protocol country to enforce a claim in respect of liability incurred under any provision corresponding to section 176A,
- and in its application to such a judgment the said Part 1 shall have effect with the omission of sections 4(2) and (3).
- (5) No steps shall be taken to enforce such a judgment unless and until the court in which it is registered under Part 1 of the Act of 1933 gives leave to enforce it; and that leave shall not be given unless and until—
- (a) in the case of a judgment within subsection (4)(a), the Fund notifies the court either that the amount of the claim is not to be reduced under paragraphs 4 and 5 of Article 4 of the Fund Convention (as set out in Part 1 of Schedule 5 to this Act) or that it is to be reduced to a specified amount; or
- (b) in the case of a judgment within subsection (4)(b), the Supplementary Fund notifies the court either that the amount of the claim is not to be reduced under paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (as set out in Schedule 5ZA to this Act) or that it is to be reduced to a specified amount.
- [<sup>F214</sup>(6) Where the court is so notified that a claim is to be reduced to a specified amount, the judgment shall be enforceable only for the reduced amount.]]

#### Textual Amendments

- F212** Words in s. 177(1) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **7(2)**
- F213** Words in s. 177(2) substituted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **7(3)**
- F214** S. 177(4)-(6) substituted for s. 177(4)(5) (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **7(4)**

*Status: Point in time view as at 01/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

- C93** S. 177 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)  
 S. 177 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)  
 S.177 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)  
 S. 177 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)  
 S. 177 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)  
 S. 177 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

#### **Marginal Citations**

**M37** 1956 c. 46.

- 178** (1) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the United Kingdom unless—
- (a) the action is commenced, or
  - (b) a third party notice of an action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund,
- not later than three years after the [<sup>F215</sup>damage occurred] .

In this subsection “third party notice” means a notice of the kind described in section 177(2) and (3).

- (2) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the United Kingdom unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the claim against the Fund arose.
- [<sup>F216</sup>(3) Subsections (1) and (2) apply in relation to claims against the Supplementary Fund as they apply in relation to claims against the Fund (with the substitution for the reference to the Fund in subsection (1)(b) of a reference to the Supplementary Fund).
- (4) For the purposes of this section—
- (a) a person who commences an action to enforce a claim against the Fund in relation to any damage shall be deemed to have also commenced an action to enforce any claim he may have against the Supplementary Fund in relation to that damage; and



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- (b) a person who gives a third party notice to the Fund in relation to any damage as mentioned in subsection (1)(b) shall be deemed to have also given a notice to the Supplementary Fund in relation to that damage.]

#### Textual Amendments

- F215** Words in s. 178(1) substituted (30.5.2006) by [Merchant Shipping \(Pollution\) Act 2006 \(c. 8\), ss. 3, 4\(2\)\(3\)](#)
- F216** S. 178(3)(4) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\), arts. 1\(2\), 8](#)

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

- C94** S. 178 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)
- S. 178 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)
- S. 178 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)
- S. 178 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)
- S. 178 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)
- S. 178 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)
- S. 178 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)
- S. 178 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)
- S. 178 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)
- S. 178 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)
- S. 178 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, Sch. 1](#)
- S. 178 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)
- S. 178 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)
- S. 178 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)
- S. 178 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

## 179 Subrogation.

- (1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.
- [<sup>F217</sup>(1A) In respect of any sum paid by the Supplementary Fund as compensation for pollution damage the Supplementary Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.]
- (2) In respect of any sum paid by a public authority in the United Kingdom as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund [<sup>F218</sup>or the Supplementary Fund] under this Chapter.

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### Textual Amendments

- F217** S. 179(1A) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **9(a)**
- F218** Words in s. 179(2) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **9(b)**

### Modifications etc. (not altering text)

- C95** S. 179 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to the British Indian Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, **Sch.**
- S. 179 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, **Sch. 1**
- S. 179 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, **Sch. 1**
- S. 179 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), art. 2, **Sch.**
- S. 179 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), art. 2, **Sch.**

## 180 Supplementary provisions as to proceedings involving the Fund.

- (1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative.
- (2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.
- [<sup>F219</sup>(3) Subsections (1) and (2) apply in relation to the Supplementary Fund as they apply in relation to the Fund (with the substitution for references to the Director, any organ or an official of the Fund of references to the Director, any organ or an official of the Supplementary Fund).]

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### Textual Amendments

**F219** S. 180(3) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **10**

### Modifications etc. (not altering text)

- C96** S. 180 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, **Sch.**  
S. 180 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, **Sch. 1**  
S. 180 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, **Sch. 1**  
S. 180 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), art. 2, **Sch.**  
S. 180 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), art. 2, **Sch.**

## 181 Interpretation.

(1) In this Chapter, unless the context otherwise requires—

“damage” includes loss;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil from the ship;

“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 163;

“incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

“oil”, except in sections 173 and 174, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means—

- (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship,
- (b) the cost of preventive measures, and

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- (c) further damage caused by preventive measures, but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of—
- (i) any loss of profits, or
  - (ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;
 

“preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken—

    - (a) after an incident has occurred, or
    - (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;
 

“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship; and

“ship” means any ship (within the meaning of Chapter III of this Part) to which section 153 applies.
- (2) For the purposes of this Chapter—
- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
  - (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.
- (3) References in this Chapter to the territory of any country shall be construed in accordance with section 170(4) reading the reference to a Liability Convention country as a reference to a Fund Convention country [<sup>F220</sup>or a Supplementary Fund Protocol country (as the case may be)] .

#### Textual Amendments

**F220** Words in s. 181(3) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **11**

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

**C97** S. 181 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**  
 S. 181 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**  
 S. 181 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**  
 S. 181 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**  
 S. 181 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, **Sch.**  
 S. 181 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, **Sch.**  
 S. 181 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, **Sch.**  
 S. 181 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), art. 2, **Sch.**

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- S. 181 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, Sch.
- S. 181 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, Sch.
- S. 181 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1
- S. 181 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1
- S. 181 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, Sch.
- S. 181 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, Sch.
- S. 181 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, Sch.

## 182 Transitory text of this Chapter and power to make transitional provisions.

- (1) Until such day as the Secretary of State may by order appoint the provisions set out in Schedule 4 as Chapter IV shall have effect instead of the foregoing provisions of this Chapter; and references in that Schedule to a section whose number is included in that Schedule is a reference to the section so included.
- (2) Notwithstanding subsection (1) above, Her Majesty may by Order in Council make such provision as appears to Her Majesty to be appropriate in connection with the implementation of any transitional provisions contained in the 1992 Protocol or the Conventions which they amend; and any such Order may in particular provide, in relation to occurrences of any description specified in the Order—
  - (a) for specified provisions of this Chapter, whether as contained in this Chapter or in the Chapter IV set out in Schedule 4, to have effect;
  - (b) for any such provisions to have effect subject to specified modifications.
- (3) In subsection (2) above—

“the 1992 Protocol” means the Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 signed in London on 27th November 1992; and

“specified” means specified in the Order.

### Subordinate Legislation Made

- P2** S. 182(1) power exercised (30.5.1996) by S.I. 1996/1210, art. 2

## F221 [CHAPTER V

### CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES

### Textual Amendments

- F221** Pt. VI Ch. V (ss. 182A-182C) and heading inserted (17.7.1997) by 1997 c. 28, s. 14(1); S.I. 1997/1539, art. 2, Sch.

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*Status: Point in time view as at 01/04/2015. This version of this Act contains provisions that are prospective.*

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**F222 182A Introductory.**

- (1) In this Chapter, unless the context otherwise requires, “the Convention” means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996.
- (2) The text of the Convention, excluding the annexes, is set out in Schedule 5A.
- (3) In interpreting the definition of “hazardous and noxious substances” in Article 1, paragraph 5 of the Convention, any reference in that paragraph to a particular convention or code as amended shall be taken to be a reference to that convention or code as amended from time to time (whether before or after the commencement of this Chapter).

**Textual Amendments**

**F222** Pt. VI Ch. V (ss. 182A-182C) inserted (17.7.1997) by 1997 c. 28, s. 14(1); S.I. 1997/1539, art. 2, Sch.

**F223 182B Power to give effect to Convention.**

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to—
  - (a) the Convention on or after its ratification by the United Kingdom; or
  - (b) any revision of the Convention which appears to Her Majesty in Council to have been agreed to by the Government of the United Kingdom.
- (2) The power conferred by subsection (1) above to make provision for the purpose of giving effect to the Convention or an agreement revising the Convention includes power to provide for the provision to come into force even though the Convention or the agreement has not come into force.
- (3) Without prejudice to the generality of subsection (1) above, an Order under that subsection may include provision—
  - (a) requiring contributions to be paid in accordance with the Convention to the International Hazardous and Noxious Substances Fund established under the Convention;
  - (b) for applying for the purpose mentioned in subsection (1) above any enactment or instrument relating to the pollution of the sea or other waters (including provisions creating offences) with such modifications, if any, as may be prescribed by the Order;
  - (c) making such modifications of any enactment or instrument (including, where the Order is made under paragraph (b) of that subsection, modifications of Schedule 5A and section 182C) as appear to Her Majesty to be appropriate for the purpose specified in that subsection;
  - (d) with respect to the application of the Order to the Crown;
  - (e) for detaining any ship in respect of which a contravention of a provision made by or under the Order is suspected to have occurred and, in relation to such a ship, for applying section 284 with such modifications, if any, as are prescribed by the Order;
  - (f) for a certificate issued by or on behalf of the Secretary of State and stating that at a particular time a particular substance was, or was not, a hazardous

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or noxious substance for the purposes of the Convention to be conclusive evidence of that matter.

- (4) An Order under subsection (1) above may—
- (a) make different provision for different circumstances;
  - (b) make provision for references in the Order to any specified document to operate as references to that document as revised or re-issued from time to time;
  - (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; and
  - (e) authorise the making of regulations for the purposes of this section (except the purposes of subsection (3)(a), (b) and (c) above).
- (5) A draft of an Order in Council proposed to be made by virtue of this section shall not be submitted to Her Majesty in Council unless it has been approved by a resolution of each House of Parliament.

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**Textual Amendments**

**F223** Pt. VI Ch. V (ss. 182A-182C) inserted (17.7.1997) by 1997 c. 28, s. 14(1); S.I. 1997/1539, art. 2, Sch.

**<sup>F224</sup>182C Power of Secretary of State to make orders.**

- (1) The Secretary of State may by order make such amendments of Schedule 5A and any Order in Council under section 182B(1) as appear to him to be appropriate for the purpose of giving effect to any amendment of a relevant limit which is adopted in accordance with article 48 of the Convention.
- (2) In subsection (1) above, “a relevant limit” means any of the limits for the time being specified in article 9, paragraph 1 and article 14, paragraph 5 of the Convention.]

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**Textual Amendments**

**F224** Pt. VI Ch. V (ss. 182A-182C) inserted (17.7.1997) by 1997 c. 28, s. 14(1); S.I. 1997/1539, art. 2, Sch.

## PART VII

### LIABILITY OF SHIPOWNERS AND OTHERS

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

**183 Scheduled convention to have force of law.**

- (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 6 (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.

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- (2) The provisions of Part II of that Schedule shall have effect in connection with the Convention and subsection (1) above shall have effect subject to the provisions of that Part.

[<sup>F225</sup>(2A) But—

- (a) subsection (1) does not give the force of law in the United Kingdom to provisions to the extent that they apply to cases in which EC Regulation No. 392/2009 applies; and
- (b) the provisions of Part 2 of that Schedule do not have effect in such cases.]

- (3) 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 6 and any provisions relating to the carriage of passengers or luggage for reward by land, sea or air in—

- (a) any convention which has been signed or ratified by or on behalf of the government of the United Kingdom before 4th April 1979 (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.

- (4) 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 modification of Parts I and II of Schedule 6 as She considers appropriate in consequence of the revision.

- (5) Nothing in subsection (1) [<sup>F226</sup>, (2) or (2A)] above or in any modification made by virtue of subsection (3) or (4) above shall affect any rights or liabilities arising out of an occurrence which took place before the day on which [<sup>F227</sup>the subsection], or as the case may be, the modification, comes into force.

- (6) 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.

- (7) A draft of an Order in Council proposed to be made under subsection (3) or (4) above shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament.

- [<sup>F228</sup>(8) In this section “EC Regulation No. 392/2009” means Regulation (EC) No. 329/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents.]

#### Textual Amendments

- F225** S. 183(2A) inserted (12.1.2013) by [The Merchant Shipping \(Carriage of Passengers by Sea\) Regulations 2012 \(S.I. 2012/3152\)](#), regs. 1(2), **14(2)**
- F226** Words in s. 183(5) substituted (12.1.2013) by [The Merchant Shipping \(Carriage of Passengers by Sea\) Regulations 2012 \(S.I. 2012/3152\)](#), regs. 1(2), **14(3)(a)**
- F227** Words in s. 183(5) substituted (12.1.2013) by [The Merchant Shipping \(Carriage of Passengers by Sea\) Regulations 2012 \(S.I. 2012/3152\)](#), regs. 1(2), **14(3)(b)**
- F228** S. 183(8) inserted (12.1.2013) by [The Merchant Shipping \(Carriage of Passengers by Sea\) Regulations 2012 \(S.I. 2012/3152\)](#), regs. 1(2), **14(4)**



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## **184 Application of Schedule 6 to carriage within British Islands.**

- (1) Her Majesty may by Order in Council provide that Part I of Schedule 6—
  - (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 within the British Islands and under the contract there is no intermediate port of call outside those Islands; and
  - (b) shall, as modified in pursuance of paragraph (a) above, 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) An Order in Council made by virtue of subsection (1) above may contain such provisions, including provisions modifying section 28 of the <sup>M38</sup>Unfair Contract Terms Act 1977 (which relates to certain contracts as respects which the Convention mentioned in section 183(1) 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.
- (3) An Order in Council made by virtue of subsection (1) above may provide that the Order or specified provisions of it shall bind the Crown.
- (4) A draft of an Order in Council proposed to be made by virtue of subsection (1) above shall not be submitted to Her Majesty in Council unless the draft of the Order in Council has been approved by a resolution of each House of Parliament.
- (5) In subsection (1) above expressions to which meanings are assigned by article 1 of the Convention set out in Part I of Schedule 6 have those meanings but any reference to a contract of carriage excludes such a contract which is not for reward.

### **Marginal Citations**

**M38** 1977 c. 50.

### *Limitation of liability of shipowners, etc and salvors for maritime claims*

## **185 Limitation of liability for maritime claims.**

- (1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 as set out in Part I of Schedule 7 (in this section and 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 subsection (1) above shall have effect subject to the provisions of that Part.
- <sup>F229</sup>[<sup>F229</sup>(2A) Her Majesty may by Order in Council make such modifications of Parts I and II of Schedule 7 as She considers appropriate in consequence of the revision of the Convention by the Protocol of 1996 amending the Convention (in this section referred to as “the 1996 Protocol”).

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<sup>F229</sup>(2B) If it appears to Her Majesty in Council that the Government of the United Kingdom has agreed to any further revision of the Convention or to any revision of article 8 of the 1996 Protocol, She may by Order in Council make such modifications of Parts I and II of Schedule 7 and subsections (2C) and (2D) below as She considers appropriate in consequence of the revision.

<sup>F229</sup>(2C) The Secretary of State may by order make such amendments of Parts I and II of Schedule 7 as appear to him to be appropriate for the purpose of giving effect to any amendment of a relevant limit which is adopted in accordance with article 8 of the 1996 Protocol.

<sup>F229</sup>(2D) In subsection (2C) above “a relevant limit” means any of the limits for the time being specified in either of the following provisions of the Convention—

- (a) article 6, paragraph 1, and
- (b) article 7, paragraph 1.

<sup>F229</sup>(2E) No modification made by virtue of subsection (2A), (2B) or (2C) above shall affect any rights or liabilities arising out of an occurrence which took place before the day on which the modification comes into force.]

(3) The provisions having the force of law under this section shall apply in relation to Her Majesty’s ships as they apply in relation to other ships.

(4) The provisions having the force of law under this section 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 commencement of this Act.

In this subsection,

“ship” and “salvage operations” have the same meaning as in the Convention.

<sup>F230</sup>[(5) A draft of an Order in Council proposed to be made by virtue of subsection (2A) or (2B) above shall not be submitted to Her Majesty in Council unless it has been approved by a resolution of each House of Parliament.]

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**Textual Amendments**

**F229** S. 185(2A)-(2E) inserted (17.7.1997) by 1997 c. 28, s. 15(1); S.I. 1997/1539, art. 2, Sch.

**F230** S. 185(5) inserted (17.7.1997) by 1997 c. 28, s. 15(2); S.I. 1997/1539, art. 2, Sch.

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

**C98** S. 185 extended (with modifications) to specified colonies (30.11.1997) by S.I. 1997/2579, art. 2, Schs. 1, 2

**186 Exclusion of liability.**

(1) Subject to subsection (3) below, the owner of a United Kingdom ship shall not be liable for any loss or damage in the following cases, namely—

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- (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) below, where the loss or damage arises from anything done or omitted by any person in his capacity of master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) above 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 set out in Part I of Schedule 7.
- (4) This section shall apply in relation to Her Majesty’s ships as it applies in relation to other ships.
- (5) 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)**

**C99** S. 186 extended (with modifications) to specified colonies (30.11.1997) by [S.I. 1997/2579, art. 2, Schs. 1, 2](#)

*Multiple fault; apportionment, liability and contribution*

**187 Damage or loss: apportionment of liability.**

- (1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was in fault.
- (2) If, in any such case, having regard to all the circumstances, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.
- (3) This section applies to persons other than the owners of a ship who are responsible for the fault of the ships, as well as to the owners of a ship and where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the ship, this section applies to the charterers or other persons for the time being so responsible instead of the owners.
- (4) Nothing in this section shall operate so as to render any ship liable for any loss or damage to which the fault of the ship has not contributed.

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- (5) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.
- (6) In this section “freight” includes passage money and hire.
- (7) In this section references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

**188 Loss of life or personal injuries: joint and several liability.**

- (1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships shall be joint and several.
- (2) Subsection (3) of section 187 applies also to this section.
- (3) Nothing in this section shall be construed as depriving any person of any right of defence on which, apart from this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in the manner provided by law.
- (4) Subsection (7) of section 187 applies also for the interpretation of this section.

**189 Loss of life or personal injuries: right of contribution.**

- (1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion in which the ship was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault.
- (2) Subsection (3) of section 187 applies also to this section.
- (3) Nothing in this section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.
- (4) In addition to any other remedy provided by law, the persons entitled to any contribution recoverable under this section shall, for the purposes of recovering it, have the same rights and powers as the persons entitled to sue for damages in the first instance.

*Time limit for proceedings against owners or ship*

**190 Time limit for proceedings against owners or ship.**

- (1) This section applies to any proceedings to enforce any claim or lien against a ship or her owners—

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- (a) in respect of damage or loss caused by the fault of that ship to another ship, its cargo or freight or any property on board it; or
  - (b) for damages for loss of life or personal injury caused by the fault of that ship to any person on board another ship.
- (2) The extent of the fault is immaterial for the purposes of this section.
- (3) Subject to subsections (5) and (6) below, no proceedings to which this section applies shall be brought after the period of two years from the date when—
  - (a) the damage or loss was caused; or
  - (b) the loss of life or injury was suffered.
- (4) Subject to subsections (5) and (6) below, no proceedings under any of sections 187 to 189 to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal injury shall be brought after the period of one year from the date of payment.
- (5) Any court having jurisdiction in such proceedings may, in accordance with rules of court, extend the period allowed for bringing proceedings to such extent and on such conditions as it thinks fit.
- (6) Any such court, if satisfied that there has not been during any period allowed for bringing proceedings any reasonable opportunity of arresting the defendant ship within—
  - (a) the jurisdiction of the court, or
  - (b) the territorial sea of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business,shall extend the period allowed for bringing proceedings to an extent sufficient to give a reasonable opportunity of so arresting the ship.

*Limitation of liability of harbour, conservancy, dock and canal authorities*

**191 Limitation of liability.**

- (1) This section applies in relation to the following authorities and persons, that is to say, a harbour authority, a conservancy authority and the owners of any dock or canal.
- (2) The liability of any authority or person to which this section applies for any loss or damage caused to any ship, or to any goods, merchandise or other things whatsoever on board any ship shall be limited in accordance with subsection (5) below by reference to the tonnage of the largest United Kingdom ship which, at the time of the loss or damage is, or within the preceding five years has been, within the area over which the authority or person discharges any functions.
- (3) The limitation of liability under this section relates to the whole of any losses and damages which may arise on any one distinct occasion, although such losses and damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under any general or local or private Act, and notwithstanding anything contained in such an Act.
- (4) This section does not exclude the liability of an authority or person to which it applies for any loss or damage resulting from any such personal act or omission of the authority or person as is mentioned in Article 4 of the Convention set out in Part I of Schedule 7.

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- (5) The limit of liability shall be ascertained by applying to the ship by reference to which the liability is to be determined the method of calculation specified in paragraph 1(b) of Article 6 of the Convention set out in Part I of Schedule 7 read with paragraph 5(1) and (2) of Part II of that Schedule.
- (6) Articles 11 and 12 of that Convention and paragraphs 8 and 9 of Part II of that Schedule shall apply for the purposes of this section.
- (7) For the purposes of subsection (2) above a ship shall not be treated as having been within the area over which a harbour authority or conservancy authority discharges any functions by reason only that it has been built or fitted out within the area, or that it has taken shelter within or passed through the area on a voyage between two places both situated outside that area, or that it has loaded or unloaded mails or passengers within the area.
- (8) Nothing in this section imposes any liability for any loss or damage where no liability exists apart from this section.
- (9) In this section—
  - “dock” includes wet docks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks, gridirons, slips, quays, wharves, piers, stages, landing places and jetties; and
  - “owners of any dock or canal” includes any authority or person having the control and management of any dock or canal, as the case may be.

*Application to Crown and its ships*

**192 Application to Crown and its ships.**

- (1) Sections 185, 186, 187, 188, 189 and 190 (except subsection (6)) apply in the case of Her Majesty’s ships as they apply in relation to other ships and section 191 applies to the Crown in its capacity as an authority or person specified in subsection (1).
- (2) In this section “Her Majesty’s ships” means—
  - (a) ships of which the beneficial interest is vested in Her Majesty;
  - (b) ships which are registered as Government ships;
  - (c) ships which are for the time being demised or sub-demised to or in the exclusive possession of the Crown;

except that it does not include any ship in which Her Majesty is interested otherwise than in right of Her Government in the United Kingdom unless that ship is for the time being demised or sub-demised to Her Majesty in right of Her Government in the United Kingdom or in the exclusive possession of Her Majesty in that right.
- (3) In the application of subsection (2) above to Northern Ireland, any reference to Her Majesty’s Government in the United Kingdom includes a reference to Her Government in Northern Ireland.

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### *[<sup>F231</sup> Regulations requiring insurance or security*

#### **Textual Amendments**

**F231** S. 192A and crossheading inserted (19.3.1997) by 1997 c. 28, ss. 16, 31(4)

#### **<sup>F232</sup>192A Compulsory insurance or security**

- (1) Subject to subsections (2) and (3) below, the Secretary of State may make regulations requiring that, in such cases as may be prescribed by the regulations, while a ship is in United Kingdom waters, there must be in force in respect of the ship—
  - (a) a contract of insurance insuring such person or persons as may be specified by the regulations against such liabilities as may be so specified and satisfying such other requirements as may be so specified, or
  - (b) such other security relating to those liabilities as satisfies requirements specified by or under the regulations.
- (2) Regulations under this section shall not apply in relation to—
  - (a) a qualifying foreign ship while it is exercising—
    - (i) the right of innocent passage, or
    - (ii) the right of transit passage through straits used for international navigation,
  - (b) any warship, or
  - (c) any ship for the time being used by the government of any State for other than commercial purposes.
- (3) Regulations under this section may not require insurance or security to be maintained in respect of a ship in relation to any liability in any case where an obligation to maintain insurance or security in respect of that ship in relation to that liability is imposed by section 163 or by or under an Order in Council under section 182B.
- (4) Regulations under this section may require that, where a person is obliged to have in force in respect of a ship a contract of insurance or other security, such documentary evidence as may be specified by or under the regulations of the existence of the contract of insurance or other security must be carried in the ship and produced on demand, by such persons as may be specified in the regulations, to such persons as may be so specified.
- (5) Regulations under this section may provide—
  - (a) that in such cases as are prescribed a ship which contravenes the regulations shall be liable to be detained and that section 284 shall have effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship,
  - (b) that a contravention of the regulations shall be an offence punishable on summary conviction by [<sup>F233</sup>a fine of an amount not exceeding £50,000, or such less amount as is prescribed by the regulations,][<sup>F233</sup>a fine, the amount of which may be limited by the regulations,] and on conviction on indictment by a fine, and
  - (c) that any such contravention shall be an offence punishable only on summary conviction by [<sup>F234</sup>a fine of an amount not exceeding £50,000, or such less

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amount as is prescribed by the regulations][<sup>F234</sup>a fine, the amount of which may be limited by the regulations].

- (6) Regulations under this section may—
- (a) make different provision for different cases,
  - (b) make provision in terms of any document which the Secretary of State or any person considers relevant from time to time, and
  - (c) include such incidental, supplemental and transitional provision as appears to the Secretary of State to be expedient for the purposes of the regulations.]

#### Textual Amendments

**F232** S. 192A inserted (19.3.1997) by 1997 c. 28, ss. 16, 31(4)

**F233** Words in s. 192A(b) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 89(a)** (with reg. 5(2))

**F234** Words in s. 192A(c) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 89(b)** (with reg. 5(2))

## PART VIII

### LIGHTHOUSES

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

**C100** Pt. VIII (ss. 193-223) amended (12.1.1998) by S.I. 1997/3016, **art. 2**

**C101** Pt. 8 modified (20.7.2006) by The General Lighthouse Authorities (Beacons: Automatic Identification System) Order 2006 (S.I. 2006/1977), arts. 1, 2

#### *Lighthouse authorities*

### 193 General and local lighthouse authorities.

- (1) For the purposes of this Part—
- (a) the Trinity House, as respects England and Wales and the adjacent seas and islands,
  - (b) the Commissioners of Northern Lighthouses, as respects Scotland and the adjacent seas and islands, and
  - (c) the Commissioners of Irish Lights, as respects Northern Ireland and the adjacent seas and islands,
- are the general lighthouse authority.
- (2) For the purposes of this Part—
- (a) each [<sup>F235</sup>statutory harbour authority], as respects their area, and
  - (b) any other existing local lighthouse authority, as respects their area,
- are the local lighthouse authority.
- (3) Schedule 8 shall have effect as respects the Commissioners of Northern Lighthouses.



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(4) In this Part “area” means—

- (a) in relation to a general lighthouse authority specified in subsection (1)(a), (b) or (c) above, the area specified in that paragraph as the area of that authority;
- (b) in relation to a [<sup>F236</sup>statutory harbour authority], the area or areas inside the limits within which the authority’s statutory powers and duties as a harbour authority are exercisable; and
- (c) in relation to any other existing local lighthouse authority, the existing area over which their authority extends in relation to lighthouses, buoys and beacons;

and for the purposes of subsection (2)(b) above and paragraph (c) above “existing” means existing for the purposes of the 1894 Act immediately before the repeal of that Act by this Act.

- (5) Subject to paragraph 9(1) of Schedule 14, the Trinity House are also the general lighthouse authority as respects Gibraltar and, subject to sub-paragraph (2) of that paragraph, the Channel Islands; and the Commissioners of Northern Lights are also the general lighthouse authority as respects the Isle of Man, and the seas adjacent to those territories.

[<sup>F237</sup>(6) In subsection (1) references to the seas include seas in an area specified by virtue of section 129(2)(b).]

**Textual Amendments**

- F235** Words in s. 193(2)(a) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 6(a)**; S.I. 1997/1539, art. 2, **Sch.**
- F236** Words in s. 193(4)(b) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 6(b)**; S.I. 1997/1539, art. 2, **Sch.**
- F237** S. 193(6) inserted (26.6.2013) by Marine Navigation Act 2013 (c. 23), **ss. 8(1)**, 13; S.I. 2013/1489, art. 2

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

- C102** S. 193(2) excluded (E.W.S.) (16.5.2008) by The London Gateway Port Harbour Empowerment Order 2008 (S.I. 2008/1261), arts. 1, **55** (with arts. 41(1), 45, 54(2), 55, 56, 57, 58(6))

*Information to Secretary of State*

**194 Returns and information to Secretary of State.**

Every general lighthouse authority and their officers shall give to the Secretary of State all such returns, explanations or information in relation to the lighthouses, buoys or beacons within their area and their management as the Secretary of State requires.

*Functions of general lighthouse authorities*

**195 General function of management of lighthouses, etc.**

- (1) Subject to the following provisions of this Part and to the powers and rights of any local lighthouse authority, the general lighthouse authorities shall have the superintendence and management of all lighthouses, buoys and beacons within their respective areas.

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- (2) Subject to the following provisions of this Part, the general lighthouse authorities shall continue to hold and maintain all property vested in them at the commencement of this Act in the same manner and for the same purposes as before.

#### **196 Joint discharge of functions.**

- (1) Two or more general lighthouse authorities may discharge any of their functions jointly, and for that purpose—
- (a) those authorities may share any part of their respective establishments; and
  - (b) any of them may, in the area of another and on that other's behalf, execute any works or do any other thing which the authority have power to execute or do in their own area;
- and any enactment relating to the functions in question or to the authorities by whom or the areas in which those functions are to be discharged shall be construed accordingly.
- (2) Any expenses incurred by any of the general lighthouse authorities in pursuance of this section shall be apportioned between that authority and the other authority or authorities concerned in such manner as may be agreed between them or (in default of agreement) determined by the Secretary of State.

#### **197 General powers of general lighthouse authority.**

- (1) Subject to subsection (2) below, a general lighthouse authority shall, within their area, have power—
- (a) to erect or place any lighthouse, with all requisite works, roads and appurtenances;
  - (b) to add to, alter, or remove any lighthouse;
  - (c) to erect or place any buoy or beacon, or alter or remove any buoy or beacon;
  - (d) to vary the character of any lighthouse or the mode of exhibiting lights therein.
- (2) A general lighthouse authority shall not in the area of a [<sup>F238</sup>statutory harbour authority]—
- (a) erect or place any lighthouse, works, roads or appurtenances under subsection (1)(a) above, or
  - (b) erect or place any buoy or beacon under subsection (1)(c) above,
- except in pursuance of a direction given by the Secretary of State.
- (3) The Secretary of State may give such a direction to a general lighthouse authority if he considers it appropriate to do so in the interests of general navigation.
- (4) Where any improved light or beacon, or any siren or any description of fog signal has been added to an existing lighthouse, the light or beacon, siren or signal may, for the purposes of this Part, be treated as if it were a separate lighthouse.
- (5) A general lighthouse authority may acquire any land which may be necessary for—
- (a) the exercise of their powers under subsection (1) above;
  - (b) the maintenance of their works; or
  - (c) the residence of the light keepers.
- (6) For the purposes of the acquisition of land by a general lighthouse authority under subsection (5) above the following provisions shall apply—

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- (a) if the land is in England and Wales, the provisions of Part I of the <sup>M39</sup>Compulsory Purchase Act 1965 (so far as applicable) except sections 4 to 8, 27 and 31;
- (b) if the land is in Scotland, the provisions of the Lands Clauses Acts (so far as applicable) except sections 120 to 125, 127, 142 and 143 of the <sup>M40</sup>Lands Clauses Consolidation (Scotland) Act 1845;
- (c) if the land is in Northern Ireland, the provisions of the Lands Clauses Acts (so far as applicable) except sections 16 to 20, 92 to 94, 123, 127 to 132, 150 and 151 of the <sup>M41</sup>Lands Clauses Consolidation Act 1845.

(7) A general lighthouse authority may sell [<sup>F239</sup>or lease] any land belonging to them.

<sup>F240</sup>(8) .....

<sup>F240</sup>(9) .....

<sup>F240</sup>(10) .....

<sup>F240</sup>(11) .....

**Textual Amendments**

**F238** Words in s. 197(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 7**; S.I. 1997/1539, art. 2, **Sch.**

**F239** Words in s. 197(7) inserted (17.7.1997) by 1997 c. 28, s. 19(1); S.I. 1997/1539, art. 2, **Sch.**

**F240** S. 197(8)-(11) omitted (26.6.2013) by virtue of Marine Navigation Act 2013 (c. 23), ss. 9(2), 13; S.I. 2013/1489, art. 2

**Marginal Citations**

**M39** 1965 c. 56.

**M40** 1845 c. 18.

**M41** 1845 c. 19.

[<sup>F241</sup>**197A**General lighthouse authorities: commercial activities

- (1) A general lighthouse authority may enter into agreements—
  - (a) for the use by others of assets of the authority (“hire agreements”);
  - (b) for the provision of consultancy or other services by the authority (“service agreements”).
- (2) But an authority may enter into a hire or service agreement only if—
  - (a) they are satisfied that it is not likely to prejudice the discharge of their functions under section 195, and
  - (b) the Secretary of State consents.
- (3) Where an authority enter or seek to enter into hire or service agreements—
  - (a) expenditure of the authority incurred in connection with the agreements, and with the Secretary of State's consent, must be paid out of the General Lighthouse Fund, and
  - (b) sums received by the authority under the agreements must be paid into the General Lighthouse Fund.

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- (4) The Secretary of State may consent to expenditure in acquiring an asset for the purpose of entering into hire agreements only if the Secretary of State thinks that the expenditure is merely preparatory or subsidiary to hire agreements in respect of other assets (such as in the case of acquiring one asset to be used with another or to be used in fitting, maintaining or converting another).
- (5) An authority must send a copy of any hire or service agreement to the Secretary of State.
- (6) Consent under this section—
  - (a) may be subject to conditions,
  - (b) may be general or specific, and
  - (c) may be prospective or retrospective.]

#### **Textual Amendments**

**F241** S. 197A inserted (26.6.2013) by [Marine Navigation Act 2013 \(c. 23\)](#), ss. **9(1)**, 13; S.I. 2013/1489, art. 2

### **198 Inspection of local lighthouses.**

- (1) It shall be the duty of the general lighthouse authority for any area, or of any person authorised by that authority for the purpose, to—
  - (a) inspect all lighthouses, buoys and beacons situated within their area but belonging to or under the management of any local lighthouse authority; and
  - (b) make such inquiries about them and their management as they think fit.
- (2) All officers and others having the care, or concerned in the management, of any such local lighthouses, buoys or beacons shall furnish all such information and explanations concerning them as the general lighthouse authority require.
- (3) All local lighthouse authorities and their officers shall give to the general lighthouse authority all such returns, explanations or information concerning the lighthouses, buoys and beacons under their management and the management of them as the general lighthouse authority may require.
- (4) The general lighthouse authority shall—
  - (a) communicate to each local lighthouse authority the results of their inspection of their lighthouses, buoys and beacons; and
  - (b) make to the Secretary of State general reports of the results of the inspection of local lighthouses, buoys and beacons.

### **199 Control of local lighthouse authorities.**

- (1) A general lighthouse authority may, within their area, with the consent of the Secretary of State, direct a local lighthouse authority to—
  - (a) lay down buoys;
  - (b) remove or discontinue any lighthouse, buoy or beacon; or
  - (c) make any variation in the character of any lighthouse, buoy or beacon or in the mode of exhibiting lights in any lighthouse, buoy or beacon;

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but the authority shall not give a direction without first giving due notice of their intention to do so.

- (2) A local lighthouse authority shall not, without the consent of the general lighthouse authority,—
  - (a) erect or place any lighthouse, buoy or beacon;
  - (b) remove or discontinue any lighthouse, buoy or beacon;
  - (c) vary the character of any lighthouse, buoy or beacon or the mode of exhibiting lights in any lighthouse, buoy or beacon.
- (3) A direction under subsection (1) above shall be given in writing; and it shall be the duty of a local lighthouse authority to whom such a direction is given to comply with it.
- (4) Nothing in this section shall apply to local buoys and beacons placed or erected for temporary purposes.

#### *Inspections by Secretary of State*

### **200 Powers of inspection by Secretary of State.**

- (1) The Secretary of State may, on complaint that any lighthouse, buoy or beacon under the management of a general lighthouse authority, or any work connected with it, is—
  - (a) inefficient,
  - (b) improperly managed, or
  - (c) unnecessary,authorise any persons appointed by him to inspect the lighthouse, buoy or beacon or any connected work.
- (2) A person so authorised may—
  - (a) inspect the lighthouse, buoy or beacon; and
  - (b) make any inquiries which he thinks fit as to the lighthouse, buoy or beacon and its management.
- (3) All officers and others having the care, or concerned in the management, of any lighthouse, buoy or beacon in relation to which powers under this section are being exercised shall furnish any information and explanations in relation to it and its management which the person inspecting it requires.

#### *Powers of harbour authorities as local lighthouse authorities*

### **201 Powers of harbour authorities.**

- (1) Every [<sup>F242</sup>statutory harbour authority] shall have power to carry out harbour operations to which subsection (2) below applies either within the authority's area or on harbour land.
- (2) This subsection applies to harbour operations consisting of the marking or lighting of a harbour or any part of a harbour.
- (3) In this section “harbour land” and “harbour operations” have the same meanings as in the <sup>M42</sup>Harbours Act 1964 or, as respects Northern Ireland, as in the <sup>M43</sup>Harbours Act (Northern Ireland) 1970.

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#### **Textual Amendments**

**F242** Words in s. 201(1) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 8**; S.I. 1997/1539, art. 2, **Sch.**

#### **Marginal Citations**

**M42** 1964 c. 40.

**M43** 1970 c. 1 (N.I.)

### *Transfers between general and local lighthouse authorities*

<sup>F243</sup>**202** .....

#### **Textual Amendments**

**F243** S. 202 repealed (17.7.1997) by 1997 c. 28, s. 29(1)(2), **Sch. 6 para. 9**, **Sch. 7 Pt. I**; S.I. 1997/1539, art. 2, **Sch.**

### **203 Individual transfers of local lighthouses to harbour authorities.**

A general lighthouse authority may, at any time, with the consent of the Secretary of State, transfer to a [<sup>F244</sup>statutory harbour authority] any lighthouse, buoy or beacon held by the general lighthouse authority which—

- (a) is situated in the area of that harbour authority or on land adjacent to that area or any part of it; and
- (b) appears to the general lighthouse authority to be of benefit solely or mainly to ships within, or entering or leaving, that harbour authority's area.

#### **Textual Amendments**

**F244** Words in s. 203 substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 10**; S.I. 1997/1539, art. 2, **Sch.**

### **204 Surrender of local lighthouses.**

- (1) A local lighthouse authority may, if they think fit, surrender or sell any lighthouse, buoy or beacon held by them to the general lighthouse authority within whose area it is situated, and that general lighthouse may, with the consent of the Secretary of State, accept or purchase it.
- (2) The Secretary of State shall not give his consent for the purposes of subsection (1) above in any case where the local lighthouse authority concerned are a [<sup>F245</sup>statutory harbour authority] unless he considers that the maintenance of the lighthouse, buoy or beacon in question is in the interests of general navigation.

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### Textual Amendments

**F245** Words in s. 204(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 11**; S.I. 1997/1539, art. 2, **Sch.**

## General light dues

### 205 Light dues leviable by general lighthouse authorities.

- (1) This section applies to dues leviable by a general lighthouse authority in respect of lighthouses, buoys or beacons under their management (in this Part called “general light dues”).
- (2) A general lighthouse authority may demand, take and recover general light dues in accordance with this section and for that purpose appoint persons to collect them.
- (3) General light dues shall be levied only by reference to the voyages made by ships or by way of periodical payments.
- (4) General light dues shall be payable in respect of all ships whatever, except—
  - (a) ships belonging to Her Majesty, and
  - (b) ships exempted from payment in pursuance of subsection (5) below.
- (5) The Secretary of State may make regulations with respect to the amounts and the levying of general light dues (including the cases in which the dues are not to be levied) and the regulations may make different provision for different circumstances.
- (6) A copy of the regulations in force under subsection (5) above in respect of general light dues shall be kept at—
  - (a) the principal office of the general lighthouse authority, and
  - (b) the office of the appointed collector at every port where such dues are collected;and shall be open for inspection there during reasonable hours by any person without charge.
- (7) Every person appointed by a general lighthouse authority to collect general light dues shall collect all such dues payable at the port at which he is so appointed or (as the case may be) such of those dues as he is appointed to collect, whether they are collected on account of that authority or on account of one of the other general lighthouse authorities.
- (8) Any person appointed by a general lighthouse authority to collect general light dues shall pay over to that authority, or as that authority directs, the whole of the general light dues received by him.
- (9) A general lighthouse authority receiving dues (whether themselves or from a collector) shall keep accounts of the dues and shall cause the dues to be remitted [<sup>F246</sup>to the Secretary of State or as he directs, and in such manner as he directs.].

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### **Textual Amendments**

**F246** Words in s. 205(9) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 12**; S.I. 1997/1539, art. 2, **Sch.**

## **206 Information to determine light dues.**

- (1) A general lighthouse authority may, for the purpose of determining whether any and, if so, what general light dues are payable in respect of any ship, require any relevant authority or any person who is liable to pay general light dues in respect of the ship, to furnish to the general lighthouse authority such information in that authority's or person's possession or control relating to the arrival or departure of the ship at or from any port within their area as they may reasonably require for that purpose.
- (2) A general lighthouse authority may require any relevant authority to furnish to them such information in the relevant authority's possession or control relating to the movements within the relevant authority's area of ships or ships of any class or description for the purpose of determining whether any and, if so, what general light dues are payable in respect of the ships.
- (3) The powers conferred on a general lighthouse authority by subsections (1) and (2) above shall also be available to the person appointed by them to collect dues at a port.
- (4) It shall be the duty of a relevant authority or person of whom a requirement for information is made under subsection (1), (2) or (3) above to furnish information as soon as is reasonably practicable.
- (5) In this section "relevant authority" means—
  - (a) a harbour authority;
  - (b) the Commissioners of Customs and Excise; and
  - (c) a conservancy authority.

## **207 Recovery of general light dues.**

- (1) The following persons shall be liable to pay general light dues in respect of any ship in respect of which such dues are payable, namely—
  - (a) the owner or master; or
  - (b) such consignees or agents of the owner or master as have paid, or made themselves liable to pay, any other charge on account of the ship in the port of her arrival or discharge.
- (2) General light dues so payable in respect of any ship may, in England and Wales and Northern Ireland, be recovered summarily as a civil debt.
- (3) In Scotland general light dues shall, for the purposes of their recovery, be regarded as a debt due to the general lighthouse authority.
- (4) Any consignee or agent (not being the owner or master of the ship) who is, by this section, made liable for the payment of general light dues in respect of any ship may, out of any money received by him on account of the ship or belonging to its owner, retain the amount of all general light dues paid by him, together with any reasonable expenses he may have incurred by reason of the payment of the dues or his liability to pay them.



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## **208 Distress on ship for general light dues.**

- (1) If the owner or master of any ship fails, on demand of the appointed collector, to pay the general light dues due in respect of the ship, the collector may enter the ship and distrain the goods or any equipment or other thing belonging to, or on board, the ship and detain that distress until those dues are paid.
- (2) If payment of the dues so demanded is not made within the period of five days following the distress, the collector may, at any time during the continuance of the non-payment, cause the distress to be independently appraised and thereupon sold by public auction.
- (3) The collector shall apply the proceeds of the sale in payment of—
  - (a) the general light dues due; and
  - (b) all reasonable expenses incurred by him under this section;and shall pay the surplus (if any), on demand, to the owner or master of the ship.
- (4) The remedy conferred by this section is in addition to any other remedy available to the collector or the general lighthouse authority by whom he was appointed.
- (5) This section does not apply to Scotland.

## **209 Receipt for general light dues and its production.**

- (1) A receipt for general light dues shall be given to the person paying them by the authority or person receiving them from him.
- (2) A ship may be detained at any port until the receipt for any general light dues due in respect of the ship is produced to the proper officer of customs and excise or the person appointed to collect general light dues at the port.

### *Local light dues*

## **210 Light dues leviable by local lighthouse authorities.**

- (1) This section applies to charges leviable by a local lighthouse authority who are not a [<sup>F247</sup>statutory harbour authority] in respect of lighthouses, buoys or beacons over which they have authority (in this section referred to as “local light dues”).
- (2) A local lighthouse authority (who are not a [<sup>F247</sup>statutory harbour authority]) may demand, take and recover in respect of every ship which—
  - (a) enters or leaves the port, harbour or estuary in which is situated any lighthouse, buoy or beacon over which they have authority; and
  - (b) passes the lighthouse, buoy or beacon and derives benefit from it,such charges as they think fit.
- (3) The same persons shall be liable to pay local light dues as are liable to pay general light dues under section 207.
- (4) Local light dues may be recovered in the same manner as general light dues may be recovered under sections 207 and 208.
- (5) A list showing the local light dues leviable by a local lighthouse authority shall be kept at the authority’s office and shall be open there during reasonable hours for inspection

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by any person without charge, and copies of the list shall be kept for sale there at such reasonable price (if any) as the authority determine.

- (6) No local light due shall be levied by a local lighthouse authority if, at the time at which it is leviable,—
- (a) the authority are in default in compliance with subsection (5) above as respects the keeping of the list of dues; or
  - (b) the light due is not shown in the list kept there at that time.
- (7) A copy of the list kept by a local lighthouse authority in pursuance of subsection (5) above shall be supplied by them to the Secretary of State without charge.
- (8) Section 31 of the <sup>M44</sup>Harbours Act 1964 (right of objection to ship, passenger and goods dues) shall apply in relation to local light dues subject, however, to the modifications specified in Schedule 10 to this Act.
- (9) All local light dues shall be applied by the authority by whom they are levied for the purpose of the construction, placing, maintenance and improvement of the lighthouses, buoys or beacons in respect of which the dues are levied, and for no other purpose.
- (10) The local lighthouse authority to whom any local light dues are paid shall keep a separate account of the receipt and expenditure of those dues.
- (11) This section does not apply to Northern Ireland.

#### **Textual Amendments**

**F247** Words in s. 210(1)(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 13**; S.I. 1997/1539, art. 2, **Sch.**

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

**C103** S. 210 applied (on and from the appointed day) by 2001 c. ii, s. 5(2)(b)

#### **Marginal Citations**

**M44** 1964 c. 40.

### *Financial and administrative provisions*

#### **211 General Lighthouse Fund: expenses and receipts.**

- (1) There shall continue to be a fund called the General Lighthouse Fund administered by the Secretary of State.
- (2) The following shall be paid out of that Fund—
- (a) any expenses incurred by general lighthouse authorities in connection with the discharge of their functions under this Part and, in the case of the Commissioners of Irish Lights as respects their functions in the Republic of Ireland, under the corresponding Part of the 1894 Act, subject, however, to section 213;
  - (b) any expenses (whether of a capital nature or not) incurred by the Secretary of State in pursuance of any international agreement relating to the provision

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- of an electronic position-fixing system intended as an aid to the navigation of ships or incurred by him preliminary to his entering into such an agreement;
- (c) such sums as the Secretary of State may determine as sums appearing to him to represent the amount or estimated amount of any expenses incurred or likely to be incurred by him in connection with the administration of the Fund;
  - (d) any expenses incurred by the Secretary of State in maintaining the Sombrero lighthouse in the Leeward Islands;
  - (e) any other sums made payable out of the Fund by any other provision of this Part or Part IX.
- (3) The following shall be paid into that Fund—
- (a) all general light dues and other sums received by or accruing to any of the general lighthouse authorities by virtue of, or in connection with the discharge of their functions under, this Part and, in the case of the Commissioners of Irish Lights as respects their functions in the Republic of Ireland, under the corresponding Part of the 1894 Act;
  - (b) any sums received by the Secretary of State in pursuance of any such agreement as is mentioned in subsection (2)(b) above in respect of—
    - (i) expenses incurred by him in pursuance of the agreement, or
    - (ii) expenses incurred by any of the general lighthouse authorities which, by virtue of subsection (2) above, are payable out of the Fund;
  - (c) any other sums made payable into the Fund by any other provision of this Part or Part IX.
- (4) The accounts of the Fund for each year shall be examined by the Comptroller and Auditor General who shall send a copy of the accounts certified by him to the Secretary of State.
- (5) The Secretary of State shall lay copies of the accounts before each House of Parliament.

## **212 Establishments of general lighthouse authorities.**

- (1) The Secretary of State may determine—
- (a) the establishments to be maintained by each of the general lighthouse authorities on account of the services of lighthouses, buoys and beacons;
  - (b) the annual or other sums to be paid out of the General Lighthouse Fund in respect of those establishments or to members of the general lighthouse authority for England and Wales.
- (2) If it appears that any part of the establishments of the general lighthouse authorities is maintained for other purposes as well as for the purposes of their duties as general lighthouse authorities, the Secretary of State may determine the portion of the expenses of those establishments to be paid out of the General Lighthouse Fund.
- (3) An increase in any establishment or part of an establishment determined under this section shall not be made without the consent of the Secretary of State.

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### **213 Estimates or accounts of expenses to Secretary of State.**

- (1) An expense of a general lighthouse authority in respect of the services of lighthouses, buoys and beacons shall not be paid out of the General Lighthouse Fund, or allowed in account, unless—
  - (a) it has been allowed as part of the establishment expenses under section 212; or
  - (b) an estimate or account of it has been approved by the Secretary of State.
- (2) For the purpose of approval by the Secretary of State, each of the general lighthouse authorities shall, except as provided by subsection (3) below, submit to him an estimate of all expenses to be incurred by them in respect of lighthouses, buoys and beacons, other than expenses allowed under section 212 on account of their establishments.
- (3) In a case where it is necessary for a general lighthouse authority, in providing for any sudden emergency, to incur any such expense as is mentioned in subsection (2) above without waiting for the approval of the Secretary of State under that subsection, the authority shall as soon as possible submit to him a full account of the expense incurred.
- (4) The Secretary of State shall consider any estimates and accounts submitted to him under this section and may approve them either with or without modification.

### **214 Pension rights of certain employees.**

- [<sup>F248</sup>(1)] There shall be payable to or in respect of persons whose salaries are paid out of the General Lighthouse Fund such pensions, allowances and gratuities as may be determined in accordance with—
- (a) in the case of such of those persons as are employed by the Secretary of State, arrangements made by him, and
  - (b) in the case of other such persons, arrangements made by a general lighthouse authority and approved by the Secretary of State;
- and those benefits shall be charged on and payable out of that Fund.

- [<sup>F249</sup>(2) Where pensions, allowances and gratuities to or in respect of persons whose salaries are paid out of the General Lighthouse Fund are payable otherwise than under subsection (1), sums in respect of those benefits may with the approval of the Secretary of State be paid out of that Fund.]

#### **Textual Amendments**

**F248** S. 214 renumbered as s. 214(1) (1.2.2014) by [Public Service Pensions Act 2013 \(c. 25\)](#), s. 41(2), [Sch. 8 para. 21\(2\)](#) (with [Sch. 11 para. 8](#)); S.I. 2013/2818, art. 5(b)

**F249** S. 214(2) inserted (1.2.2014) by [Public Service Pensions Act 2013 \(c. 25\)](#), s. 41(2), [Sch. 8 para. 21\(3\)](#) (with [Sch. 11 para. 8](#)); S.I. 2013/2818, art. 5(b)

### **215 Borrowing powers of general lighthouse authorities.**

- (1) A general lighthouse authority may, with the consent of the Secretary of State and the Treasury, borrow money for the purpose of defraying any expenses incurred or to be incurred by the authority in connection with the discharge of their functions under this Part or Part IX.
- (2) A general lighthouse authority may, in connection with any advance to them under this section, mortgage any land or other property belonging to them.

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- (3) Any sums payable by a general lighthouse authority under the terms of an advance under this section by way of principal, interest or otherwise shall be paid out of the General Lighthouse Fund.

#### **216 Limit on borrowings under section 215.**

- (1) The aggregate amount outstanding in respect of the principal of any sums borrowed under section 215 shall not at any time exceed £100 million.
- (2) The Secretary of State may, by order, with the approval of the Treasury, increase or further increase that limit, but not by more than £33 million at a time.
- (3) An order shall not be made under subsection (2) above unless a draft of the order has been laid before and approved by a resolution of the House of Commons.

#### **217 Guarantees by Secretary of State.**

- (1) The Secretary of State with the consent of the Treasury may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums borrowed by a general lighthouse authority under section 215.
- (2) Immediately after a guarantee is given under this section, the Secretary of State shall lay a statement of the guarantee before each House of Parliament, and where any sum is issued for fulfilling a guarantee so given the Secretary of State shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to that sum.
- (3) Any sums required by the Secretary of State for fulfilling any guarantee under this section shall be paid out of money provided by Parliament.
- (4) If any sums are issued in fulfilment of any guarantee given under this section there shall be made to the Secretary of State out of the General Lighthouse Fund, at such times and in such manner as the Secretary of State may determine with the consent of the Treasury, payments of such amounts as the Secretary of State may so determine in or towards repayment of the sums so issued, and payments of interest on what is outstanding for the time being in respect of sums so issued at such rate as the Secretary of State may so determine.
- (5) The Secretary of State, with the consent of the Treasury, may vary or revoke any determination made by him under subsection (4) above.
- (6) Any sums received by the Secretary of State under subsection (4) above shall be paid into the Consolidated Fund.

#### **218 Accounts of general lighthouse authorities.**

- (1) Each of the general lighthouse authorities shall account to the Secretary of State for the general light dues and other sums received by or accruing to them by virtue of, or in connection with, the discharge of their functions under this Part or Part IX and for their expenditure in respect of expenses paid out of the General Lighthouse Fund

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in such form, at such times, and with such details, explanations and vouchers as the Secretary of State requires.

- (2) Each of the general lighthouse authorities shall, when required by the Secretary of State, permit all accounting records kept by or under their respective direction to be inspected and examined by such persons as the Secretary of State appoints for the purpose.

*Offences in connection with lighthouses, buoys, beacons, etc.*

### **219 Damage etc. to lighthouses etc.**

- (1) A person who, without lawful authority—
- (a) intentionally or recklessly damages—
    - (i) any lighthouse or the lights exhibited in it, or
    - (ii) any lightship, buoy or beacon;
  - (b) removes, casts adrift or sinks any lightship, buoy or beacon; or
  - (c) conceals or obscures any lighthouse, buoy or beacon;
- commits an offence.
- (2) A person who, without reasonable excuse,—
- (a) rides by,
  - (b) makes fast to, or
  - (c) runs foul of,
- any lightship, buoy or beacon commits an offence.
- (3) A person who is guilty of an offence under this section shall, in addition to being liable for the expenses of making good any damage so occasioned, be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

### **220 Prevention of false lights.**

- (1) Whenever any light is exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, the general lighthouse authority within whose area the place is situated, may serve a notice (“a prevention notice”) upon the owner of the place where the light is exhibited or upon the person having the charge of the light.
- (2) A prevention notice is a notice directing the person to whom it is addressed to take, within a reasonable time specified in the notice, effectual means for extinguishing or effectually screening the light and for preventing for the future any similar light.
- (3) A prevention notice may, in addition to any other mode of service authorised by this Act, be served by affixing the notice in some conspicuous spot near to the light to which it relates.
- (4) If a person on whom a prevention notice is served fails, without reasonable excuse, to comply with the directions contained in the notice, he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (5) If a person on whom a prevention notice is served neglects for a period of seven days to extinguish or effectually screen the light mentioned in the notice, the general

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lighthouse authority may enter the place where the light is and forthwith extinguish it, doing no unnecessary damage.

- (6) Where a general lighthouse authority incur any expenses in exercising their powers under subsection (5) above they may recover the expenses from the person on whom the prevention notice was served.
- (7) Any such expenses may, in England and Wales and Northern Ireland, be recovered summarily as a civil debt.
- (8) In Scotland any such expenses shall, for the purposes of their recovery, be regarded as a debt due by the person on whom the notice has been served to the general lighthouse authority.

#### *Exemptions from taxes, duties, etc*

### **221 Exemption from taxes, duties, rates etc.**

- (1) The following, that is to say—
  - (a) all lighthouses, buoys and beacons,
  - (b) all general light dues and other rates, fees or payments accruing to or forming part of the General Lighthouse Fund, and
  - (c) all premises or property belonging to or occupied by any of the general lighthouse authorities,

which are used or applied for the purposes of any of the services for which those dues, rates, fees and payments are received shall be exempt from all public or local taxes, duties or rates.

- (2) All instruments used by or under the direction of any general lighthouse authority in carrying on those services shall be exempt from stamp duty.

[<sup>F250</sup>(2A) For the purposes of stamp duty land tax, any land transaction entered into by or under the direction of any general lighthouse authority for the purposes of carrying on those services is exempt from charge.]

- (3) Stamp duty shall not be chargeable on any proposals under Schedule 9.

- (4) All instruments used by or under the direction of the Secretary of State in carrying this Part into effect shall be exempt from stamp duty.

[<sup>F251</sup>(4A) For the purposes of stamp duty land tax, any land transaction entered into by or under the direction of the Secretary of State for the purposes of carrying this Part into effect is exempt from charge.]

- (4B) Relief under subsection (2A) or subsection (4A) must be claimed in a land transaction return or an amendment of such a return.

- (4C) In this section—

“land transaction” has the meaning given in section 43(1) of the Finance Act 2003;

“land transaction return” has the meaning given by section 76(1) of that Act.]

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- (5) All instruments which are required by any provision of this Part to be in a form approved by the Secretary of State, if made in that form, shall be exempt from stamp duty.

#### Textual Amendments

- F250** S. 221(2A) inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 24(2)**
- F251** S. 221(4A)-(4C) inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 24(3)**

## 222 Exemption from harbour dues.

All ships belonging to or used by any of the general lighthouse authorities or the Secretary of State shall be entitled to enter, resort to, and use any harbours, ports, docks or piers in the United Kingdom without any payment of tolls, dues or rates of any kind.

### [<sup>F252</sup>222A] Disclosure of information to general lighthouse authorities.

- (1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall prevent a Minister of the Crown or a Northern Ireland department from disclosing—
- (a) to a general lighthouse authority, or
  - (b) to a person appointed by a general lighthouse authority to collect general light dues,
- information for the purpose of enabling or assisting the authority to discharge their functions under this Part.
- (2) Information obtained by any person by virtue of subsection (1) above shall not be disclosed by him to any other person except where the disclosure is made—
- (a) to a general lighthouse authority or a person appointed by such an authority to collect general light dues; or
  - (b) for the purposes of any legal proceedings arising out of this Part.]

#### Textual Amendments

- F252** S. 222A inserted (17.7.1997) by [1997 c. 28, s. 20](#); [S.I. 1997/1539](#), art. 2, **Sch.**

### *Supplemental*

## 223 Interpretation, etc.

- (1) In this Part—
- “buoys and beacons” includes all other marks and signs of the sea;
- “the Commissioners of Irish Lights” means the body incorporated by that name under the local Act of the session held in the 30th and 31st years of the reign of Queen Victoria intituled “An Act to alter the constitution of the Corporation for preserving and improving the port of Dublin and for other purposes connected with that body and with the Port of Dublin Corporation”;



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“general light dues” has the meaning given in section 205(1);

“lighthouse” includes any floating and other light exhibited for the guidance of ships, and also any sirens and any other description of fog signals, and also any addition to a lighthouse of any improved light, or any siren, or any description of fog signal;

“the Trinity House” means the master, wardens and assistants of the guild, fraternity or brotherhood of the most glorious and undivided Trinity and of St Clement in the parish of Deptford Strond in the county of Kent, commonly called the corporation of the Trinity House of Deptford Strond;

“the 1894 Act” means the Merchant Shipping Act 1894.

- (2) Any reference in this Part to a lighthouse, buoy or beacon includes its appurtenances.
- (3) The Secretary of State may by order provide that references or a particular reference to a buoy or beacon in this Part 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 in the navigation of ships.
- (4) No order shall be made under subsection (3) above unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

## PART IX

### SALVAGE AND WRECK

#### CHAPTER 1

##### SALVAGE

#### **224 Salvage Convention 1989 to have force of law.**

- (1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 11 (in this Chapter referred to as “the Salvage 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 Salvage Convention, and subsection (1) above shall have effect subject to the provisions of that Part.
- (3) If it appears to Her Majesty in Council that the Government of the United Kingdom has agreed to any revision of the Salvage Convention She may by Order in Council make such modifications of Parts I and II of Schedule 11 as She considers appropriate in consequence of the revision.
- (4) Nothing in subsection (1) or (2) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before 1st January 1995.
- (5) Nothing in any modification made by virtue of subsection (3) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the day on which the modification comes into force.

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- (6) As respects any period before the entry into force of the Salvage Convention any reference in the Salvage Convention to a State Party to the Convention shall be read as a reference to the United Kingdom.
- (7) A draft of an Order in Council proposed to be made by virtue of subsection (3) above shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament.

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

**C104** S. 224 extended (with modifications) to Jersey (22.8.1997) by [S.I. 1997/1773](#), art. 2, [Sch.](#)

S. 224 extended (with modifications) to specified colonies (30.11.1997) by [S.I. 1997/2586](#), art. 2, [Schs. 1, 2](#)

**225 Valuation of property by receiver.**

- (1) Where any dispute as to salvage arises, the receiver may, on the application of either party, appoint a valuer to value the property.
- (2) When the valuation has been made the receiver shall give copies of it to both parties.
- (3) A copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceedings.
- (4) There shall be paid in respect of the valuation by the person applying for it such fee as the Secretary of State may direct.

**226 Detention of property liable for salvage by receiver.**

- (1) Where salvage is due to any person under this Chapter, the receiver shall—
  - (a) if the salvage is due in respect of services rendered—
    - (i) in assisting a vessel, or
    - (ii) in saving life from a vessel, or
    - (iii) in saving the cargo and equipment of a vessel,
 detain the vessel and cargo or equipment; and
  - (b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Chapter, detain the wreck.
- (2) Subject to subsection (3) below, the receiver shall detain the vessel and the cargo and equipment, or the wreck, as the case may be, until payment is made for salvage, or process is issued for the arrest or detention of the property by the court.
- (3) The receiver may release any property detained under subsection (2) above if security is given—
  - (a) to his satisfaction, or
  - (b) where—
    - (i) the claim for salvage exceeds £5,000, and
    - (ii) any question is raised as to the sufficiency of the security,
 to the satisfaction of the court.

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- (4) Any security given for salvage under this section to an amount exceeding £5,000 may be enforced by the court in the same manner as if bail had been given in that court.
- (5) In this section “the court” means the High Court or, in Scotland, the Court of Session.
- (6) As respects Scotland the reference in subsection (2) to process being issued for arrest shall be construed as a reference to warrant for arrestment being granted.

## **227 Sale of detained property by receiver.**

- (1) The receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases.
- (2) Those cases are—
  - (a) where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due;
  - (b) where the amount is disputed, but no appeal lies from the first court to which the dispute is referred, and payment is not made within twenty days after the decision of the first court;
  - (c) where the amount is disputed and an appeal lies from the decision of the first court to some other court, and within twenty days of the decision of the first court neither payment of the sum due is made nor proceedings are commenced for an appeal.
- (3) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of the expenses, fees and salvage and any excess shall be paid to the owners of the property or any other persons entitled to it.
- (4) In this section “detained property” means property detained by the receiver under section 226(2).

## **228 Apportionment of salvage under £5,000 by the receiver.**

- (1) Where—
  - (a) the aggregate amount of salvage payable in respect of salvage services rendered in United Kingdom waters has been finally determined and does not exceed £5,000; but
  - (b) a dispute arises as to the apportionment of the amount among several claimants,the person liable to pay the amount may apply to the receiver for leave to pay it to him.
- (2) The receiver shall, if he thinks fit, receive the amount and, if he does, he shall give the person paying it a certificate stating the amount paid and the services in respect of which it is paid.
- (3) A certificate under subsection (2) above shall be a full discharge and indemnity to the person by whom it was paid, and to his vessel, cargo, equipment and effects against the claims of all persons in respect of the services mentioned in the certificate.
- (4) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled to it, on such evidence, and in such shares and proportions, as he thinks fit.

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- (5) Any decision by the receiver under subsection (4) above shall be made on the basis of the criteria contained in Article 13 of the Salvage Convention.
- (6) The receiver may retain any money which appears to him to be payable to any person who is absent.
- (7) A distribution made by a receiver under this section shall be final and conclusive as against all persons claiming to be entitled to any part of the amount distributed.

## **229 Apportionment of salvage by the court.**

- (1) Where—
  - (a) the aggregate amount of salvage payable in respect of salvage services rendered in United Kingdom waters has been finally determined and exceeds £5,000; or
  - (b) the aggregate amount of salvage payable in respect of salvage services rendered outside United Kingdom waters (of whatever amount) has been finally determined; but
  - (c) in either case, any delay or dispute arises as to the apportionment of the amount,

the court may cause the amount of salvage to be apportioned among the persons entitled to it in such manner as it thinks just.
- (2) Any decision of the court under this section shall be made on the basis of the criteria contained in Article 13 of the Salvage Convention.
- (3) For the purpose of making that apportionment, the court may—
  - (a) appoint any person to carry that apportionment into effect;
  - (b) compel any person in whose hands or under whose control the amount may be to distribute it or to pay it into court to be dealt with as the court directs; and
  - (c) issue such process as it thinks fit.
- (4) In this section “the court” means the High Court or, in Scotland, the Court of Session or a sheriff.

## **230 Salvage claims against the Crown and Crown rights of salvage and regulation thereof.**

- (1) Subject to section 29 of the <sup>M45</sup>Crown Proceedings Act 1947 (exclusion of proceedings in rem against the Crown) (so far as consistent with the Salvage Convention) the law relating to civil salvage, whether of life or property, except sections 225, 226 and 227, shall apply in relation to salvage services in assisting any of Her Majesty’s ships, or in saving life therefrom, or in saving any cargo or equipment belonging to Her Majesty in right of Her Government in the United Kingdom, in the same manner as if the ship, cargo or equipment belonged to a private person.
- (2) Where salvage services are rendered by or on behalf of Her Majesty, whether in right of Her Government in the United Kingdom or otherwise, Her Majesty shall be entitled to claim salvage in respect of those services to the same extent as any other salvor, and shall have the same rights and remedies in respect of those services as any other salvor.

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- (3) No claim for salvage services by the commander or crew, or part of the crew, of any of Her Majesty's ships shall be finally adjudicated upon without the consent of the Secretary of State to the prosecution of the claim.
- (4) Any document purporting to give the consent of the Secretary of State for the purposes of subsection (3) above and to be signed by an officer of the Ministry of Defence shall be evidence of that consent.
- (5) If a claim is prosecuted without the consent required by subsection (3) above the claim shall be dismissed with costs.
- (6) The reference in subsection (5) above to dismissal with costs shall in Scotland be construed as a reference to dismissal with the defender being found entitled to expenses.
- (7) "Her Majesty's ships" has the same meaning in this section as in section 192.
- (8) In the application of this section to Northern Ireland, any reference to Her Majesty's Government in the United Kingdom includes a reference to Her Government in Northern Ireland.

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**Marginal Citations**

**M45** 1947 c. 44.

## CHAPTER II

### WRECK

#### *Vessels in distress*

#### **231 Application of, and discharge of functions under, sections 232, 233 234 and 235.**

- (1) Sections 232, 233, 234 and 235 apply in circumstances where a United Kingdom or foreign vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters.
- (2) Where any function is conferred on the receiver by any of those sections that function may be discharged by any officer of customs and excise or any principal officer of the coastguard.
- (3) An officer discharging any such functions of the receiver shall, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by any provision of this Chapter, be treated as the agent of the receiver.
- (4) However, an officer discharging such functions shall not—
  - (a) be entitled to any fees payable to receivers, or
  - (b) be deprived of any right to salvage to which he would otherwise be entitled.
- (5) In any of those sections "shipwrecked persons", in relation to a vessel, means persons belonging to the vessel.

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### 232 Duty of receiver where vessel in distress.

- (1) In circumstances in which this section applies by virtue of section 231 in relation to any vessel the receiver shall, on being informed of the circumstances, discharge the following functions.
- (2) Subject to subsection [<sup>F253</sup>(3)] below, the receiver shall—
  - (a) forthwith proceed to the place where the vessel is;
  - (b) take command of all persons present; and
  - (c) assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the shipwrecked persons.
- (3) The receiver shall not interfere between the master and crew of the vessel in reference to the management of the vessel unless he is requested to do so by the master.
- (4) Subject to subsection (3) above, if any person intentionally disobeys the direction of the receiver he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

**F253** Figure in s. 232(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 14**; S.I. 1997/1539, art. 2, **Sch.**

### 233 Powers of receiver in case of vessel in distress.

- (1) [<sup>F254</sup>Subject to subsection (1A) below,] in circumstances where this section applies by virtue of section 231 in relation to any vessel the receiver may, for the purpose of the preservation of shipwrecked persons or of the vessel, cargo and equipment—
  - (a) require such persons as he thinks necessary to assist him;
  - (b) require the master, or other person having the charge, of any vessel near at hand to give such assistance with his men, or vessel, as may be in his power; and
  - (c) require the use of any vehicle that may be near at hand.
- <sup>F255</sup>[(1A) The receiver may not under subsection (1) above impose any requirement on the master or other person having the charge of a vessel owned or operated by the Royal National Lifeboat Institution.]
- (2) If any person refuses, without reasonable excuse, to comply with any requirement made under subsection (1) above he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

**F254** Words in s. 233(1) inserted (17.7.1997) by 1997 c. 28, s. 21(1); S.I. 1997/1539, art. 2, **Sch.**

**F255** S. 233(1A) inserted (17.7.1997) by 1997 c. 28, s. 21(2); S.I. 1997/1539, art. 2, **Sch.**

### 234 Power to pass over adjoining land.

- (1) In circumstances where this section applies by virtue of section 231 in relation to any vessel, all persons may, subject to subsections (3) and (4) below, for the purpose of—

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- (a) rendering assistance to the vessel,
  - (b) saving the lives of shipwrecked persons, or
  - (c) saving the cargo or equipment of the vessel,pass and repossess over any adjoining land without being subject to interruption by the owner or occupier and deposit on the land any cargo or other article recovered from the vessel.
- (2) The right of passage conferred by subsection (1) above is a right of passage with or without vehicles.
- (3) No right of passage is conferred by subsection (1) above where there is some public road equally convenient.
- (4) The rights conferred by subsection (1) above shall be so exercised as to do as little damage as possible.
- (5) Any damage sustained by an owner or occupier of land in consequence of the exercise of the rights conferred by this section shall be a charge on the vessel, cargo or articles in respect of or by which the damage is caused.
- (6) Any amount payable in respect of such damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is determined and recoverable under this Part.
- (7) If the owner or occupier of any land—
  - (a) impedes or hinders any person in the exercise of the rights conferred by this section;
  - (b) impedes or hinders the deposit on the land of any cargo or other article recovered from the vessel; or
  - (c) prevents or attempts to prevent any cargo or other article recovered from the vessel from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit;he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

### **235 Liability for damage in case of plundered vessel.**

- (1) Where, in circumstances in which this section applies by virtue of section 231 in relation to any vessel, the vessel or any part of its cargo and equipment is plundered, damaged or destroyed by persons in circumstances in which those persons commit the offence of riot or, in Scotland, of mobbing and rioting, compensation shall be made to the owner of the vessel, cargo or equipment in accordance with the following provisions of this section.
- (2) Compensation under subsection (1) above in England and Wales shall be made by the compensation authority in the manner provided by the <sup>M46</sup>Riot (Damages) Act 1886 with respect to claims for compensation under that Act.
- (3) Where the vessel, cargo or equipment is not within a police area, the plundering, damage or destruction shall be treated for the purposes of subsection (2) above as taking place within the nearest police area.
- (4) Compensation under subsection (1) above in Scotland shall, as if entitlement to it arose under section 10 of the <sup>M47</sup>Riotous Assemblies (Scotland) Act 1822, be made

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by the council constituted under section 2 of the <sup>M48</sup>Local Government etc. (Scotland) Act 1994 within whose area, or nearest to whose area, the plundering, damage or destruction took place.

- (5) Compensation under subsection (1) above in Northern Ireland shall be made in pursuance of an application under the <sup>M49</sup>Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 as modified for the purposes of this section by the <sup>M50</sup>Transfer of Functions (Criminal Injuries to Vessels) (Northern Ireland) Order 1973.

#### Marginal Citations

**M46** 1886 c. 38.

**M47** 1822 c. 33.

**M48** 1994 c. 39.

**M49** 1971 c. 38 (N.I.).

**M50** S.R. 1973 No. 56 (N.I.).

### *Dealing with wreck*

#### **236 Duties of finder etc of wreck.**

- (1) If any person finds or takes possession of any wreck in United Kingdom waters or finds or takes possession of any wreck outside United Kingdom waters and brings it within those waters he shall—
- (a) if he is the owner of it, give notice to the receiver stating that he has found or taken possession of it and describing the marks by which it may be recognised;
  - (b) if he is not the owner of it, give notice to the receiver that he has found or taken possession of it and, as directed by the receiver, either hold it to the receiver's order or deliver it to the receiver.
- (2) If any person fails, without reasonable excuse, to comply with subsection (1) above he shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale and if he is not the owner of the wreck he shall also—
- (a) forfeit any claim to salvage; and
  - (b) be liable to pay twice the value of the wreck—
    - (i) if it is claimed, to the owner of it; or
    - (ii) if it is unclaimed, to the person entitled to the wreck.
- (3) Any sum payable under subsection (2)(b) above to the owner of the wreck or to the persons entitled to the wreck may, in England and Wales and Northern Ireland, be recovered summarily as a civil debt.
- (4) In Scotland any sum payable under subsection (2)(b) above to the owner of the wreck or to the persons entitled to the wreck shall, for the purposes of the sum's recovery, be regarded as a debt due to the owner or, as the case may be, to those persons.

#### **237 Provisions as respects cargo, etc.**

- (1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters, any cargo



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or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.

- (2) If any person (whether the owner or not)—
- (a) conceals or keeps possession of any such cargo or article, or
  - (b) refuses to deliver any such cargo or article to the receiver or to any person authorised by the receiver to require delivery,
- he shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) The receiver or any person authorised by him may take any such cargo or article (if necessary by force) from any person who refuses to deliver it.

### **238 Receiver to give notice of wreck.**

- (1) Where the receiver takes possession of any wreck he shall, within 48 hours—
- (a) make a record describing the wreck and any marks by which it is distinguished; and
  - (b) if in his opinion the value of the wreck exceeds £5,000, also transmit a similar description to the chief executive officer of Lloyd’s in London.
- (2) The record made by the receiver under subsection (1)(a) above shall be kept by him available for inspection by any person during reasonable hours without charge.
- (3) The notice sent under subsection (1)(b) above to the chief executive officer of Lloyd’s shall be posted by him in some conspicuous position for inspection.

### **239 Claims of owners to wreck.**

- (1) The owner of any wreck in the possession of the receiver who establishes his claim to the wreck to the satisfaction of the receiver within one year from the time when the wreck came into the receiver’s possession shall, on paying the salvage, fees and expenses due, be entitled to have the wreck delivered or the proceeds of sale paid to him.
- (2) Where—
- (a) a foreign ship has been wrecked on or near the coasts of the United Kingdom, or
  - (b) any articles belonging to or forming part of or of the cargo of a foreign ship which has been wrecked on or near the coasts of the United Kingdom are found on or near the coast or are brought into any port,
- the appropriate consular officer shall, in the absence of the owner and of the master or other agent of the owner, be treated as the agent of the owner for the purposes of the custody and disposal of the wreck and such articles.
- (3) In subsection (2) above “the appropriate consular officer”, in relation to a foreign ship, means the consul general of the country to which the ship or, as the case may be, the owners of the cargo may have belonged or any consular officer of that country authorised for the purpose by any treaty or arrangement with that country.

### **240 Immediate sale of wreck in certain cases.**

- (1) The receiver may at any time sell any wreck in his possession if, in his opinion—

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- (a) it is under the value of £5,000;
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or
- (c) it is not of sufficient value to pay for storage.

<sup>F256</sup>[(1A) The receiver may also sell any wreck in his possession before the end of the year referred to in section 239(1) if—

- (a) in his opinion it is unlikely that any owner will establish a claim to the wreck within that year; and
- (b) no statement has been given to the receiver under section 242(1) in relation to the place where the wreck was found.]

(2) [<sup>F257</sup>Subject to subsection (3) below,] the proceeds of sale shall, after defraying the expenses of the sale, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

<sup>F258</sup>[(3) Where the receiver sells any wreck in a case falling within subsection (1A) above, he may make to the salvors an advance payment, of such amount as he thinks fit and subject to such conditions as he thinks fit, on account of any salvage that may become payable to them in accordance with section 243(5).]

#### Textual Amendments

**F256** S. 240(1A) inserted (17.7.1997) by 1997 c. 28, s. 22(2); S.I. 1997/1539, art. 2, Sch.

**F257** Words in s. 240(2) inserted (17.7.1997) by 1997 c. 28, s. 22(3); S.I. 1997/1539, art. 2, Sch.

**F258** S. 240(3) inserted (17.7.1997) by 1997 c. 28, s. 22(3); S.I. 1997/1539, art. 2, Sch.

### *Unclaimed wreck*

#### **241 Right of Crown to unclaimed wreck.**

Her Majesty and Her Royal successors are entitled to all unclaimed wreck found in the United Kingdom or in United Kingdom waters except in places where Her Majesty or any of Her Royal predecessors has granted the right to any other person.

#### **242 Notice of unclaimed wreck to be given to persons entitled.**

- (1) Any person who is entitled to unclaimed wreck found at any place in the United Kingdom or in United Kingdom waters shall give the receiver a statement containing the particulars of his entitlement and specifying an address to which notices may be sent.
- (2) Where a statement has been given to the receiver under subsection (1) above and the entitlement is proved to the satisfaction of the receiver, the receiver shall, on taking possession of any wreck found at a place to which the statement refers, within 48 hours, send to the specified address a description of the wreck and of any marks distinguishing it.

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### **243 Disposal of unclaimed wreck.**

- (1) Where, as respects any wreck found in the United Kingdom or in United Kingdom waters and in the possession of the receiver, no owner establishes a claim to it within one year after it came into the receiver's possession, the wreck shall be dealt with as follows.
- (2) If the wreck is claimed by any person who has delivered the statement required by section 242 and has proved to the satisfaction of the receiver his entitlement to receive unclaimed wreck found at the place where the wreck was found, the wreck shall, on payment of all expenses, costs, fees and salvage due in respect of it, be delivered to that person.
- (3) If the wreck is not claimed by any person in accordance with section 242, the receiver shall sell the wreck and pay the proceeds as directed by subsection (6) below, after making the deductions required by subsection (4) below and paying to the salvors the amount of salvage determined under subsection (5) below.
- (4) The amounts to be deducted by the receiver are—
  - (a) the expenses of the sale;
  - (b) any other expenses incurred by him; and
  - (c) his fees.
- (5) The amount of salvage to be paid by the receiver to the salvors shall be such amount as the Secretary of State directs generally or in the particular case.
- (6) The proceeds of sale (after making those deductions and salvage payments) shall be paid by the receiver for the benefit of Her Majesty—
  - (a) if the wreck is claimed in right of the Duchy of Lancaster, to the receiver-general of the duchy or his deputies as part of its revenues;
  - (b) if the wreck is claimed in right of the Duchy of Cornwall, to the receiver-general of the duchy or his deputies as part of its revenues; and
  - (c) in any other case, into the Consolidated Fund.

### **244 Effect of delivery of wreck etc under this Part.**

- (1) Delivery of wreck or payment of the proceeds of sale of wreck by the receiver under this Chapter shall discharge the receiver from all liability in respect of the delivery or payment.
- (2) Delivery of wreck by the receiver under this Chapter shall not, however, prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck or concerning the title to the soil of the place at which the wreck was found.

#### *Offences in respect of wreck*

### **245 Taking wreck to foreign port.**

- (1) A person commits an offence if he takes into any foreign port and sells—
  - (a) any vessel stranded, derelict or otherwise in distress found on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters;

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(b) any part of the cargo or equipment of, or anything belonging to, such a vessel;  
or

(c) any wreck found within those waters.

(2) A person who is guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for a term not exceeding five years.

#### **246 Interfering with wrecked vessel or wreck.**

(1) Subject to subsection (2) below, a person commits an offence if, without the permission of the master, he boards or attempts to board any vessel which is wrecked, stranded or in distress.

(2) No offence is committed under subsection (1) above if the person is the receiver or a person lawfully acting as the receiver or if he acts by command of the receiver or a person so acting.

(3) A person commits an offence if—

(a) he impedes or hinders or attempts to impede or hinder the saving of—

(i) any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water; or

(ii) any part of the cargo or equipment of any such vessel; or

(iii) any wreck;

(b) he conceals any wreck;

(c) he defaces or obliterates any mark on a vessel; or

(d) he wrongfully carries away or removes—

(i) any part of any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water;

(ii) any part of the cargo or equipment of any such vessel; or

(iii) any wreck.

(4) The master of a vessel may forcibly repel any person committing or attempting to commit an offence under subsection (1) above.

(5) A person who is guilty of an offence under this section shall be liable, on summary conviction—

(a) in the case of an offence under subsection (1) above, to a fine not exceeding level 3 on the standard scale;

(b) in the case of an offence under subsection (3) above, to a fine not exceeding level 4 on the standard scale.

#### **247 Powers of entry etc.**

(1) Where the receiver has reason to believe that—

(a) any wreck is being concealed by or is in the possession of some person who is not the owner of it; or

(b) any wreck is being otherwise improperly dealt with,

he may apply to a justice of the peace for a search warrant.

(2) Where a search warrant is granted under subsection (1) above to the receiver, the receiver may, by virtue of the warrant—

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- (a) enter any house, or other place (wherever situated) or any vessel; and
  - (b) search for, seize and detain any wreck found there.
- (3) If any seizure of wreck is made under this section in consequence of information given by any person to the receiver, the person giving the information shall be entitled, by way of salvage, to such sum, not exceeding £100, as the receiver may allow.

### CHAPTER III

#### SUPPLEMENTAL

##### *Administration*

#### **248 Functions of Secretary of State as to wreck.**

- (1) The Secretary of State shall have the general superintendence throughout the United Kingdom of all matters relating to wreck.
- (2) The Secretary of State may, with the consent of the Treasury, appoint one or more persons to be receiver of wreck for the purposes of this Part and a receiver so appointed shall discharge such functions as are assigned to him by the Secretary of State.
- (3) Such public notice of appointments to the office of receiver shall be given as appears to the Secretary of State to be appropriate.

#### **249 Expenses and fees of receivers.**

- (1) There shall be paid to the receiver the expenses properly incurred by him in the discharge of his functions and also, in respect of such matters as may be prescribed by regulations made by the Secretary of State, such fees as may be so prescribed.
- (2) The receiver shall not be entitled to any other remuneration.
- (3) The receiver shall, in addition to all other rights and remedies for the recovery of those expenses and fees, have the same rights and remedies in respect of those expenses and fees as a salvor has in respect of salvage due to him.
- (4) Whenever any dispute arises as to the amount payable to the receiver in respect of expenses or fees, that dispute shall be determined by the Secretary of State whose decision shall be final.

##### *Coastguard services*

#### **250 Remuneration for services of coastguard.**

- (1) Subject to subsection (2) below, where services are rendered by any officers or men of the coastguard service in watching or protecting shipwrecked property the owner of the property shall pay in respect of those services remuneration according to a scale fixed by the Secretary of State.
- (2) No liability in respect of those services arises under subsection (1) above where—

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- (a) the services have been declined by the owner of the property or his agent at the time they were tendered; or
  - (b) salvage has been claimed and awarded for the services.
- (3) Remuneration under this section shall—
- (a) be recoverable by the same means,
  - (b) be paid to the same persons, and
  - (c) be accounted for and applied in the same manner,
- as fees received by the receiver under section 249.
- (4) The scale fixed by the Secretary of State shall not exceed the scale by which remuneration to officers and men of the coastguard for extra duties in the ordinary service of the Commissioners of Customs and Excise is for the time being regulated.

*Release from customs and excise control*

**251 Release of goods from customs and excise control.**

- (1) The Commissioners of Customs and Excise shall, subject to taking security for the protection of the revenue in respect of the goods, permit all goods saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination.
- (2) The Commissioners of Customs and Excise shall, subject to taking such security, permit all goods saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped.
- (3) In this section “goods” includes wares and merchandise.

*Removal of wrecks*

**252 Powers of harbour and conservancy authorities in relation to wrecks.**

- (1) Where any vessel is sunk, stranded or abandoned in, or in or near any approach to, any harbour or tidal water under the control of a harbour authority or conservancy authority in such a manner as, in the opinion of the authority, to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service in that harbour or water or approach thereto, that authority may exercise any of the following powers.
- (2) Those powers are—
  - (a) to take possession of, and raise, remove or destroy the whole or any part of the vessel and any other property to which the power extends;
  - (b) to [<sup>F259</sup>mark the location of] the vessel or part of the vessel and any such other property until it is raised, removed or destroyed; and
  - (c) subject to subsections (5) and (6) below, to sell, in such manner as the authority think fit, the vessel or part of the vessel so raised or removed and any other property recovered in the exercise of the powers conferred by paragraph (a) or (b) above;
  - (d) to reimburse themselves, out of the proceeds of the sale, for the expenses incurred by them in relation to the sale.

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(3) The other property to which the powers conferred by subsection (2) above extend is every article or thing or collection of things being or forming part of the equipment, cargo, stores or ballast of the vessel.

[<sup>F260</sup>(3A) For the purposes of subsection (2)(b) a location may be marked by—

- (a) buoys, lights or other physical devices;
- (b) the transmission of information about the location.]

(4) Any surplus of the proceeds of a sale under subsection (2)(c) above shall be held by the authority on trust for the persons entitled thereto.

(5) Except in the case of property which is of a perishable nature or which would deteriorate in value by delay, no sale shall be made under subsection (2)(c) above until at least seven days notice of the intended sale has been given by advertisement in a local newspaper circulating in or near the area over which the authority have control.

(6) At any time before any property is sold under subsection (2)(c) above, the owner of the property shall be entitled to have it delivered to him on payment of its fair market value.

(7) The market value of property for the purposes of subsection (6) above shall be that agreed on between the authority and the owner or, failing agreement, that determined by a person appointed for the purpose by the Secretary of State.

(8) The sum paid to the authority in respect of any property under subsection (6) above shall, for the purposes of this section, be treated as the proceeds of sale of the property.

(9) Any proceeds of sale arising under subsection (2)(c) above from the sale of a vessel and any other property recovered from the vessel shall be treated as a common fund.

(10) This section is without prejudice to any other powers of a harbour authority or conservancy authority.

#### Textual Amendments

**F259** Words in s. 252(2)(b) substituted (26.6.2013) by [Marine Navigation Act 2013 \(c. 23\)](#), **ss. 11(1)**, 13; S.I. 2013/1489, art. 2

**F260** S. 252(3A) inserted (26.6.2013) by [Marine Navigation Act 2013 \(c. 23\)](#), **ss. 11(2)**, 13; S.I. 2013/1489, art. 2

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

**C105** S. 252 applied (E.W.S.) (1.1.1998) by [S.I. 1997/2949](#), **art. 14(1)**

S. 252 modified (E.W.S.) (23.12.1999) by [S.S.I. 1999/202](#), **arts. 24, 25(1)-(3)**

S. 252 applied (with modifications) (E.W.S.) (14.7.2000) by [S.S.I. 2000/233](#), **arts. 33, 34**

**C106** S. 252 modified (E.W.S.) (29.12.2007) by [The Maryport Harbour Revision Order 2007 \(S.I. 2007/3463\)](#), **arts. 1(1), 25, 26** (with arts. 78, 80, 81)

**C107** S. 252 applied (with modifications) (E.W.S.) (23.7.2012) by [The Poole Harbour Revision Order 2012 \(S.I. 2012/1777\)](#), **arts. 1(2), 19, 20** (with arts. 58, 59)

## 253 Powers of lighthouse authorities in relation to wrecks.

(1) Where—

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- (a) any vessel is sunk, stranded or abandoned in any fairway or on the seashore or on or near any rock, shoal or bank in the United Kingdom or any of the adjacent seas or islands; and
  - (b) there is no harbour authority or conservancy authority having power to raise, remove or destroy the vessel;
- the general lighthouse authority for the place in or near which the vessel is situated shall, if in the authority's opinion the vessel is, or is likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service, have the same powers in relation thereto as are conferred by section 252.
- (2) Where a general lighthouse authority have incurred expenses in the exercise of their powers under this section in relation to any vessel, then—
- (a) if the proceeds of any sale made under section 252 in connection with the exercise of those powers in relation to the vessel are insufficient to reimburse the authority for the full amount of those expenses, the authority may recover the amount of the deficiency from the relevant person, or
  - (b) if there is no such sale, the authority may recover the full amount of those expenses from the relevant person.
- (3) Any expenses so incurred which are not recovered by the authority either out of the proceeds of any such sale or in accordance with subsection (2) above shall be paid out of the General Lighthouse Fund, but section 213 shall apply to those expenses as if they were expenses of the authority falling within subsection (1) of that section other than establishment expenses.
- (4) In this section “the relevant person”, in relation to any vessel, means the owner of the vessel at the time of the sinking, stranding or abandonment of the vessel.

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

**C108** S. 253 excluded (E.W.S.) (23.12.1999) by [S.S.I. 1999/202, art. 25\(4\)](#)

S. 253 applied (with modifications) (E.W.S.) (14.7.2000) by [S.S.I. 2000/233, arts. 33, 34](#)

**254 Referral of questions as to powers between authorities.**

- (1) If any question arises between a harbour authority or conservancy authority and a general lighthouse authority as to their respective powers under sections 252 and 253 in relation to any place in or near an approach to a harbour or tidal water, that question shall, on the application of either authority, be referred to the Secretary of State for his decision.
- (2) Any decision of the Secretary of State under this section shall be final.

*Interpretation*

**255 Interpretation.**

- (1) In this Part—
- “receiver” means a receiver of wreck appointed under section 248;
  - “salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;



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“the Salvage Convention” has the meaning given by section 224(1);

“salvor” means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of the ship;

“tidal water” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, and not being a harbour;

“vessel” includes any ship or boat, or any other description of vessel used in navigation; and

“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

- (2) Fishing boats or fishing gear lost or abandoned at sea and either—
- (a) found or taken possession of within United Kingdom waters; or
  - (b) found or taken possession of beyond those waters and brought within those waters;
- shall be treated as wreck for the purposes of this Part.
- (3) In the application of this Part in relation to Scotland, any reference to a justice of the peace includes a reference to a sheriff.

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

**C109** S. 255 extended (with modifications) to Jersey (22.8.1997) by [S.I. 1997/1773](#), [art. 2](#), [Sch.](#)

**C110** S. 255(1) extended (with modifications) to specified colonies (30.11.1997) by [S.I. 1997/2586](#), [art. 2](#), [Schs. 1, 2](#)

[<sup>F261</sup>**PART 9A**

**WRECK REMOVAL CONVENTION**

**Textual Amendments**

**F261** [Pt. 9A](#) inserted (5.2.2015 for the insertion of ss. 255A, 255J, 255N, 255R for specified purposes, 14.4.2015 in so far as not already in force) by [Wreck Removal Convention Act 2011 \(c. 8\)](#), [ss. 1\(2\)](#), [2\(2\)](#); [S.I. 2015/133](#), [arts. 2, 3](#)

*Preliminary*

**255A “The Wrecks Convention”**

- (1) In this Part—
- (a) “the Wrecks Convention” means the Nairobi International Convention on the Removal of Wrecks 2007 done in Nairobi on 18 May 2007, and
  - (b) “Wrecks Convention State” means a State which is a party to the Wrecks Convention.
- (2) The text of the Wrecks Convention is set out in Schedule 11ZA.

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### *Reporting, marking and removing*

#### **255B Wreck reports**

- (1) Where an accident results in a wreck in a Convention area, the persons responsible for any United Kingdom ship involved in the accident must report the wreck without delay.
- (2) If the wreck is in the United Kingdom's Convention area, it must be reported to the Secretary of State.
- (3) If the wreck is in the Convention area of any other State, it must be reported to the government of that State.
- (4) The following are responsible for a ship—
  - (a) the master of the ship, and
  - (b) the operator of the ship.
- (5) A report under subsection (1) must include the information mentioned in paragraph (2) of Article 5 of the Wrecks Convention (so far as it is known).
- (6) If one of the persons responsible for a ship makes a report under subsection (1) the others are no longer under a duty to make a report.
- (7) Failure to comply with the reporting requirement is an offence.
- (8) A person guilty of an offence under this section is liable<sup>F262</sup>—  
<sup>F262</sup>on summary conviction, or on conviction on indictment, to a fine].

#### **Textual Amendments**

**F262** Words in s. 255B(8) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(11\)](#) (with reg. 5(1))

#### **255C Locating and marking wrecks**

- (1) This section applies where an accident results in a wreck in the United Kingdom's Convention area.
- (2) The Secretary of State must ensure that the United Kingdom complies with its obligations under Articles 7 and 8 of the Wrecks Convention (locating and marking of wrecks).
- (3) The Secretary of State may, for those purposes, direct any of the following to take specified steps in relation to the wreck if it is within their area—
  - (a) a general lighthouse authority;
  - (b) a harbour authority;
  - (c) a conservancy authority.
- (4) A direction may require an authority to exercise or not to exercise a power under section 252 or 253 within their area <sup>F263</sup>(and for this purpose a general lighthouse authority has the powers conferred by section 253 throughout their area)].

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<sup>F264</sup>(5) .....

- (6) A direction—
- (a) must be in writing, or
  - (b) where it is not reasonably practicable to give it in writing, must be confirmed in writing as soon as reasonably practicable.
- (7) An authority to whom a direction is given must comply with it.

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**Textual Amendments**

**F263** Words in s. 255C(4) inserted (26.6.2013) by [Marine Navigation Act 2013 \(c. 23\), ss. 8\(2\)\(a\), 13; S.I. 2013/1489, art. 2](#)

**F264** S. 255C(5) omitted (26.6.2013) by virtue of [Marine Navigation Act 2013 \(c. 23\), ss. 8\(2\)\(b\), 13; S.I. 2013/1489, art. 2](#)

**255D Removal by registered owner**

- (1) This section applies where—
- (a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in the United Kingdom's Convention area, and
  - (b) the Secretary of State has determined that the wreck poses a hazard.
- (2) The Secretary of State must take all reasonable steps to give a notice (a “wreck removal notice”) requiring the registered owner to comply with the obligations imposed on registered owners by paragraph 2 and 3 of Article 9 of the Wrecks Convention (removal of wrecks and production of evidence of insurance).
- (3) The notice must be in writing and must—
- (a) specify the deadline set under paragraph 6(a) of that Article for the removal of the wreck, and
  - (b) inform the registered owner of the other matters set out in paragraph 6(b) and (c) of that Article.
- (4) A registered owner who fails, without reasonable excuse, to comply with a notice by the specified deadline is guilty of an offence.
- (5) A registered owner guilty of the offence is liable<sup>F265</sup>—  
<sup>F265</sup>on summary conviction, or on conviction on indictment, to a fine].

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**Textual Amendments**

**F265** Words in s. 255D(5) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\), reg. 1\(1\), Sch. 4 para. 27\(12\)](#) (with [reg. 5\(1\)](#))

**255E Imposition of conditions about removal**

- (1) This section applies if the Secretary of State has given a registered owner a wreck removal notice.

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- (2) The Secretary of State may impose conditions as to the removal of the wreck in accordance with paragraph 4 of Article 9 of the Wrecks Convention.
- (3) A condition is imposed by giving notice of it to the registered owner.
- (4) A registered owner who fails, without reasonable excuse, to comply with a condition is guilty of an offence.
- (5) A registered owner guilty of the offence is liable<sup>F266</sup>—  
<sup>F266</sup>on summary conviction, or on conviction on indictment, to a fine].

#### Textual Amendments

**F266** Words in s. 255E(5) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(13\)](#) (with reg. 5(1))

#### 255F Removal in default

- (1) The Secretary of State may remove a wreck in the United Kingdom's Convention area in the circumstances set out in paragraph 7 or 8 of Article 9 of the Wrecks Convention.
- (2) The Secretary of State may, instead of exercising the power under subsection (1), direct that the power be exercised by any of the following—
  - (a) a general lighthouse authority;
  - (b) a harbour authority;
  - (c) a conservancy authority.
- (3) A direction may be given to an authority only in relation to a wreck within the authority's area.
- <sup>F267</sup>(4) .....
- (5) A direction—
  - (a) must be in writing, or
  - (b) where it is not reasonably practicable to give it in writing, must be confirmed in writing as soon as reasonably practicable.
- (6) An authority to whom a direction is given must comply with it.

#### Textual Amendments

**F267** S. 255F(4) omitted (26.6.2013) by virtue of [Marine Navigation Act 2013 \(c. 23\)](#), [ss. 8\(3\)](#), 13; [S.I. 2013/1489](#), [art. 2](#)

#### 255G Liability for costs

- (1) This section applies where—
  - (a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in the United Kingdom's Convention area, and

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- (b) costs have been incurred complying with section 255C or 255F (locating and marking and removal of wrecks).
- (2) The person who incurred the costs is entitled to recover them from the ship's registered owner unless the owner proves that an exception set out in paragraph 1(a), (b) or (c) of Article 10 of the Wrecks Convention applies.
- (3) The owner is not liable for costs under this section if or to the extent that liability would conflict with—
  - (a) a convention listed in paragraph 1 of Article 11 of the Wrecks Convention (exceptions to liability),
  - (b) an enactment implementing such a convention, or
  - (c) any other provision specified by order made by the Secretary of State.
- (4) Where the registered owner of each of two or more ships is liable for costs under this section but the costs for which each is liable cannot reasonably be separated, the registered owners shall be jointly liable for the total costs.
- (5) This section does not prevent the exercise of the right (if any) to limit liability by virtue of section 185.
- (6) An order under subsection (3)(c) may be made only if a draft has been laid before and approved by resolution of each House of Parliament.
- (7) An order may include incidental, supplemental or transitional provision.

#### **255H Limitation period**

An action to recover costs under section 255G may not be brought after the end of whichever of the following ends earlier—

- (a) the period of 3 years beginning with the date on which a wreck removal notice was given in respect of the wreck, and
- (b) the period of 6 years beginning with the date of the accident which resulted in the wreck.

#### **255I Expenses of general lighthouse authorities**

Costs incurred by a general lighthouse authority in complying with a direction under section 255C or 255F shall be paid out of the General Lighthouse Fund if or to the extent that they are not recovered under section 255G; but section 213 shall apply as if they were expenses of the authority falling within subsection (1) of that section other than establishment expenses.

### *Insurance*

#### **255J Wreck removal insurance**

- (1) This section applies to ships with a gross tonnage of 300 or more.
- (2) A United Kingdom ship may not enter or leave a port in the United Kingdom or elsewhere unless—
  - (a) the ship has wreck removal insurance, and
  - (b) the Secretary of State has certified that it has wreck removal insurance.

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- (3) A foreign ship may not enter or leave a port in the United Kingdom unless—
  - (a) the ship has wreck removal insurance, and
  - (b) there is a certificate confirming that it has wreck removal insurance.
- (4) For a ship registered in a foreign Wrecks Convention State the certificate must be one that has been issued by or under the authority of the government of that State.
- (5) For a foreign ship registered in any other State the certificate must be one that has been issued—
  - (a) by the Secretary of State, or
  - (b) by or under the authority of the government of a Wrecks Convention State.
- (6) For the purposes of subsection (1) the gross tonnage of a ship is to be calculated in the manner prescribed by order under paragraph 5(2) of Part II of Schedule 7.
- (7) In this Part—
 

“wreck removal insurance” means a contract of insurance or other security satisfying the requirements of Article 12 of the Wrecks Convention, and “insurer” means the person providing the insurance or other security, and

“wreck removal insurance certificate” means a certificate required by subsection (2)(b) or (3)(b).

#### **255K Failure to insure**

- (1) The master and operator of a ship are each guilty of an offence if—
  - (a) the ship enters or leaves a port in contravention of section 255J, or
  - (b) anyone attempts to navigate the ship into or out of a port in contravention of that section.
- (2) A person guilty of the offence is liable<sup>F268</sup>—  
<sup>F268</sup>on summary conviction, or on conviction on indictment, to a fine].

#### **Textual Amendments**

**F268** Words in s. 255K(2) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(14\)](#) (with [reg. 5\(1\)](#))

#### **255L Detention of ships**

A ship may be detained if anyone attempts to navigate it out of a port in contravention of section 255J.

#### **255M Production of certificates**

- (1) This section applies to a ship which is required to have a wreck removal insurance certificate before entering or leaving a port.
- (2) The master of the ship must ensure that the certificate is carried on board.
- (3) The master of the ship must, on request, produce the certificate to—

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- (a) an officer of Revenue and Customs;
  - (b) an officer of the Secretary of State;
  - (c) if the ship is a United Kingdom ship, a proper officer.
- (4) Failure to comply with subsection (2) or (3) is an offence.
- (5) A person guilty of the offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **255N Issue of certificates**

- (1) This section applies where the registered owner applies to the Secretary of State for a wreck removal insurance certificate in respect of—
- (a) a United Kingdom ship, or
  - (b) a foreign ship registered in a State other than a Wrecks Convention State.
- (2) In relation to a United Kingdom ship, the Secretary of State must issue the certificate if satisfied—
- (a) that the ship has wreck removal insurance in place for the period to which the certificate will relate, and
  - (b) that the obligations of the person providing the wreck removal insurance will be met.
- (3) In relation to a foreign ship registered in a State other than a Wrecks Convention State, the Secretary of State may issue the certificate if satisfied of the matters in paragraphs (a) and (b) of subsection (2).
- (4) The Secretary of State must send a copy of a certificate issued in respect of a United Kingdom ship to the Registrar General of Shipping and Seamen.
- (5) The Registrar must make such certificates available for public inspection.

### **255O Cancellation of certificates**

- (1) The Secretary of State may make regulations about the cancellation and delivery up of wreck removal insurance certificates issued under section 255N.
- (2) A person who fails to deliver up a certificate in accordance with the regulations is guilty of an offence.
- (3) A person guilty of the offence is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **255P Third parties' rights against insurers**

- (1) This section applies where—
- (a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in the United Kingdom's Convention area,
  - (b) at the time of the accident the ship had wreck removal insurance, and
  - (c) there is a wreck removal insurance certificate in relation to the insurance.
- (2) A person who is entitled to recover costs from the ship's registered owner under section 255G may recover them from the insurer.

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- (3) It is a defence for the insurer to prove that the accident was caused by the wilful misconduct of the ship's registered owner.
- (4) The insurer may also rely on any defences available to the registered owner (including section 255H).
- (5) The insurer may limit liability in respect of claims made under this section to the same extent as the registered owner may limit liability by virtue of section 185 (or would be able to limit liability by virtue of that section if it were not for paragraph 3 of Part 2 of Schedule 7).
- (6) But an insurer may limit liability whether or not the accident is caused by an act or omission mentioned in Article 4 of the Convention set out in Part 1 of Schedule 7.
- (7) The following do not apply in relation to any wreck removal insurance to which a wreck removal insurance certificate relates—
  - (a) the Third Parties (Rights against Insurers) Act 1930;
  - (b) the Third Parties (Rights against Insurers) (Northern Ireland) Act 1930;
  - (c) the Third Parties (Rights against Insurers) Act 2010.

#### **255Q Electronic certificates**

- (1) This section applies if the Secretary of State has given, or proposes to give, notice under paragraph 13 of Article 12 of the Wrecks Convention (electronic insurance certificates, &c.).
- (2) The Secretary of State may by order make such amendments of this Part as the Secretary of State thinks necessary or expedient for giving effect to the notice.
- (3) An order may be made only if a draft has been laid before and approved by resolution of each House of Parliament.
- (4) An order may include incidental, supplemental or transitional provision.

#### *Supplemental*

#### **255R Interpretation etc.**

- (1) Expressions used in this Part shall be construed in accordance with Article 1 of the Wrecks Convention.
- (2) In this Part—
  - “accident” means a collision of ships, a stranding, another incident of navigation or another event (whether on board a ship or not) which results in material damage to a ship or its cargo or in an imminent threat of material damage to a ship or its cargo,
  - “insurer” shall be construed in accordance with section 255J(7),
  - “wreck removal insurance” has the meaning given by section 255J(7),
  - “wreck removal insurance certificate” has the meaning given by section 255J(7),
  - “wreck removal notice” means a notice under section 255D,
  - “the Wrecks Convention” has the meaning given by section 255A(1), and



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“Wrecks Convention State” has the meaning given by section 255A(1).

- (3) References in this Part to entering or leaving a port in a State include references to arriving at or leaving an offshore facility in the territorial sea of that State (except in section 255L).
- (4) References in this Part to ships registered in a State include unregistered ships entitled to fly the flag of that State.
- (5) In determining for the purposes of this Part whether a wreck poses a hazard the Secretary of State must take into account the matters set out in Article 6 of the Wrecks Convention (determination of hazard).
- (6) The Secretary of State shall from time to time by order describe the United Kingdom's Convention area.
- (7) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Wrecks Convention, the Order shall, while in force, be conclusive evidence of that fact.

#### **255S Government ships**

- (1) This Part does not apply in relation to warships or ships for the time being used by a State for non-commercial purposes only.
- (2) But it does apply to such ships if specified in a notice under paragraph 3 of Article 4 of the Wrecks Convention.
- (3) Section 255K does not apply to a ship (an “exempt ship”) that is owned by a Wrecks Convention State.
- (4) An exempt ship must have a certificate issued by the government of the State concerned and stating—
  - (a) that the ship is owned by that State, and
  - (b) that any liability under section 255G will be met up to the limits prescribed by paragraph 1 of Article 12 of the Wrecks Convention (compulsory insurance).
- (5) Section 255M(2) to (5) applies to such a certificate.
- (6) Where a ship is owned by a State and operated by a company which is registered in that State as operator of the ship, references in this Part to the registered owner are references to that company.
- (7) In proceedings against a Wrecks Convention State for the recovery of costs under section 255G the State shall be treated as having submitted to the jurisdiction of the court in which the proceedings are brought; but this does not authorise execution, or in Scotland the execution of diligence, against the property of a State.

#### **255T Saving**

Nothing in this Part affects any claim, or the enforcement of any claim, a person incurring any liability under this Part may have against any other person in respect of that liability.

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## **255U Power to amend**

- (1) The Secretary of State may by order amend this Part to reflect any amendment of the Wrecks Convention.
- (2) An order under this section may be made only if a draft has been laid before and approved by resolution of each House of Parliament.]

## **PART X**

### ENFORCEMENT OFFICERS AND POWERS

#### *Enforcement Officers*

## **256 Appointment of inspectors and surveyors.**

- (1) The Secretary of State may, if he thinks fit, appoint any person as an inspector to report to him—
  - (a) upon the nature and causes of any accident or damage which any ship has or is alleged to have sustained or caused;
  - (b) whether any requirements, restrictions or prohibitions imposed by or under this Act have been complied with or (as the case may be) contravened;
  - (c) whether the hull and machinery of a ship are sufficient and in good condition;
  - (d) what measures have been taken to prevent the escape of oil or mixtures containing oil.
- (2) The Secretary of State may, at such ports as he thinks fit, appoint persons to be surveyors of ships for the purposes of this Act and may remove any person so appointed.
- (3) A surveyor of ships may be appointed either as a ship surveyor or as an engineer surveyor or as both.
- (4) Surveyor of ships may be appointed either generally or for any particular case or purpose.
- (5) The Secretary of State may also appoint a surveyor general of ships for the United Kingdom and such other officers in connection with the survey of ships and other matters incidental thereto as he thinks fit.
- (6) The Secretary of State may appoint persons to be inspectors for the purposes of sections 261 to 266.
- (7) Every inspector appointed under [F<sup>269</sup>subsection] (1) above shall be treated as appointed under subsection (6) above.
- (8) Every surveyor of ships shall be treated as a person appointed generally under subsection (1) above to report to the Secretary of State in every kind of case falling within paragraphs (b) and (d) of that subsection in relation to Chapter II of Part VI.
- (9) In this Act—
  - (a) “Departmental inspector” means an inspector appointed under subsection (1) above;

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- (b) “surveyor of ships” means a surveyor appointed under subsection (2) above;
- (c) “Departmental officer” means any officer of the Secretary of State discharging functions of his for the purposes of this Act;

and the reference to requirements, restrictions or prohibitions under this Act includes any such requirements, restrictions or prohibitions constituting the terms of any approval, licence, consent or exemption given in any document issued under this Act.

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**Textual Amendments**

**F269** Word in s. 256(7) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 15**; S.I. 1997/1539, art. 2, **Sch.**

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

**C111** S. 256(1) extended (1.1.1996) by 1995 c. 22, **ss. 5(6), 9(4)**

[<sup>F270</sup>**256A** **Scottish officers**

- (1) The Scottish Ministers may authorise any member of the staff of the Scottish Administration to exercise any of the powers under sections 125(3), 258 and 284(1) of an officer of, or a person appointed by, a Minister of the Crown for the purpose of enforcing, in Scotland or in the Scottish zone and in relation to fishing vessels, sections 49 and 125; and sections 258(5) and 284(4) and (5) shall apply in relation to a member of the staff of the Scottish Administration authorised under this section as they apply to such an officer or person.
- (2) In this section, “the Scottish zone” has the same meaning as in section 126(1) of the Scotland Act 1998.]

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**Textual Amendments**

**F270** S. 256A inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 119**; S.I. 1998/3178, **art. 3**

*Inspection etc powers*

**257 Powers to require production of ships documents.**

- (1) The powers conferred by this section are conferred in relation to United Kingdom ships and are available to any of the following officers, namely—
  - (a) any Departmental officer,
  - (b) any commissioned naval officer,
  - (c) any British consular officer,
  - (d) the Registrar General of Shipping and Seamen or any person discharging his functions,
  - (e) any chief officer of customs and excise,
  - (f) any superintendent,

whenever the officer has reason to suspect that this Act or any law for the time being in force relating to merchant seamen or navigation is not complied with.

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- (2) Those powers are—
- (a) to require the owner, master, or any of the crew to produce any official log-books or other documents relating to the crew or any member of the crew in their possession or control;
  - (b) to require the master to produce a list of all persons on board his ship, and take copies of or extracts from the official log-books or other such documents;
  - (c) to muster the crew; and
  - (d) to require the master to appear and give any explanation concerning the ship or her crew or the official log-books or documents produced or required to be produced.
- (3) If any person, on being duly required by an officer under this section to produce a log-book or any document, fails without reasonable excuse to produce the log-book or document, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If any person, on being duly required by any officer under this section—
- (a) to produce a log-book or document, refuses to allow the log-book or document to be inspected or copied;
  - (b) to muster the crew, impedes the muster; or
  - (c) to give any explanation, refuses or neglects to give the explanation or knowingly misleads or deceives the officer;
- he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## **258 Powers to inspect ships and their equipment, etc.**

- (1) [<sup>F271</sup>For the purposes of seeing that the provisions of this Act other than sections 131 to 141 and sections 143 to 151 and the provisions of regulations and rules made under this Act (other than those sections) are complied with or] that the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations are duly complied with, the following persons, namely—
- (a) a surveyor of ships,
  - (b) a superintendent,
  - (c) any person appointed by the Secretary of State, either generally or in a particular case, to exercise powers under this section,
- may at all reasonable times go on board a ship [<sup>F272</sup>in the United Kingdom or in United Kingdom waters] and inspect the ship and its equipment or any part thereof, any articles on board and any document carried in the ship in pursuance of this Act <sup>F273</sup> . . . or in pursuance of regulations or rules under this Act <sup>F273</sup> . . .
- <sup>F274</sup>[(1A) The powers conferred by subsection (1) above are not exercisable in relation to a qualifying foreign ship while the ship is exercising—
- (a) the right of innocent passage, or
  - (b) the right of transit passage through straits used for international navigation.]
- (2) The powers conferred by subsection (1) above are, if the ship is a United Kingdom ship, also exercisable outside [<sup>F275</sup>United Kingdom waters] and may be so exercised by a proper officer as well as the persons mentioned in that subsection.

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(3) A person exercising powers under this section shall not unnecessarily detain or delay a ship but may, if he considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

<sup>F276</sup>(4) . . . . .

(5) If any person obstructs a person in the exercise of his powers under this section, or fails to comply with a requirement made under subsection (3) above, he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

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**Textual Amendments**

- F271** Words in s. 258(1) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 4(2)(a)**; S.I. 1997/1082, art. 2, **Sch.**
- F272** Words in s. 258(1) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 4(2)(b)**; S.I. 1997/1082, art. 2, **Sch.**
- F273** Words in s. 258(1) omitted (23.3.1997) by virtue of 1997 c. 28, s. 9, **Sch. 1 para. 4(2)(c)**; S.I. 1997/1082, art. 2, **Sch.** and repealed (17.7.1997) by 1997 c. 28, s. 29(2), **Sch. 7 Pt. I**; S.I. 1997/1539, art. 2, **Sch.**
- F274** S. 258(1A) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 4(3)**; S.I. 1997/1082, art. 2, **Sch.**
- F275** Words in s. 258(2) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 4(4)**; S.I. 1997/1082, art. 2, **Sch.**
- F276** S. 258(4) repealed (1.7.2012) by Protection of Freedoms Act 2012 (c. 9), s. 120, Sch. 2 para. 2(1), **Sch. 10 Pt. 2** (with s. 97, Sch. 2 para. 2(2))

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

- C112** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by **The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007** (S.I. 2007/3075), regs. 1, **19**
- C113** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by **The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007** (S.I. 2007/3077), regs. 1, **18**
- C114** Ss. 258-266 applied (1.3.2008) by **The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007** (S.I. 2007/3100), regs. 1, **22**
- C115** S. 258 applied (with modifications) (8.12.2008) by **The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008** (S.I. 2008/2924), regs. 1, **26** (with reg. 3)
- C116** S. 258 applied (with modifications) (1.2.2009) by **The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008** (S.I. 2008/3257), regs. 1(2), **36** (with reg. 6(17))
- C117** S. 258 applied in part (with modifications) (1.12.2009) by **The Merchant Shipping (Anti-Fouling Systems) Regulations 2009** (S.I. 2009/2796), regs. 1, **10(2)** (with reg. 3)
- C118** Ss. 258-266 applied (with modifications) (6.4.2010) by **The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010** (S.I. 2010/332), regs. 1, **22** (with regs. 4, 5)
- C119** Ss. 258-266 applied (with modifications) (6.4.2010) by **The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010** (S.I. 2010/323), regs. 1, **27** (with regs. 4, 5)
- C120** Ss. 258-266 applied (with modifications) (6.4.2010) by **The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010** (S.I. 2010/330), regs. 1, **20** (with regs. 4, 5)
- C121** Ss. 258-266 applied (6.4.2010) by **The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010** (S.I. 2010/737), regs. 1(1), **19** (with reg. 5)

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- C122** Ss. 258-266 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010 (S.I. 2010/2987), regs. 1, **16**
- C123** Ss. 258-266 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010 (S.I. 2010/2984), regs. 1, **26**
- C124** S. 258 applied (with modifications) (24.11.2011) by The Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601), regs. 1(2), **25(2)**
- C125** S. 258 applied in part (with modifications) (15.8.2013) by The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785), regs. 1, **16(2)**
- C126** S. 258 applied in part (with modifications) (17.3.2014) by S.I. 2002/2125, **reg. 14(3)** (as substituted by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), regs. 1(2), **2(14)**)
- C127** S. 258 applied in part (with modifications) (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **54(2)**
- C128** S. 258 applied in part (with modifications) (13.10.2014) by S.I. 1997/2962, **reg. 27A(2)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014 (S.I. 2014/1616), regs. 1(2), **2(18)**)

## **259 Powers of inspectors in relation to premises and ships.**

- (1) The powers conferred by this section are conferred in relation to—
- (a) any premises in the United Kingdom; or
  - (b) any United Kingdom ship wherever it may be and any other ship which is present in the United Kingdom or in United Kingdom waters;
- and are available to any Departmental inspector, or any inspector appointed under section 256(6), for the purpose of performing his functions.
- (2) Such an inspector—
- (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, or
    - (ii) board any ship,
 if he has reason to believe that it is necessary for him to do so;
  - (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 for the purpose by the Secretary of State and any equipment or materials he requires;
  - (c) may make such examination and investigation as he considers necessary;
  - (d) may 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 the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;
  - (g) may, in the case of any article or substance which he finds in the premises or ship and which appears to him to have caused or to be likely to cause danger

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- 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);
- (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 this Act or any instrument made under it;
- (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 this Act 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.
- (3) The powers conferred by subsection (2) above to require the production of any document and copy it include, in relation to oil record books required to be carried under section 142, power to require the master to certify the copy as a true copy.
- (4) The powers conferred by subsection (2) above to inspect premises shall also be exercisable, for the purpose of Chapter II of Part VI, in relation to any apparatus used for transferring oil.
- (5) The powers of entry and inspection of premises conferred by subsections (2) and (4) above for the purposes of Chapter II of Part VI shall not be exercisable by Departmental inspectors (or surveyors of ships in their capacity as Departmental inspectors) in relation to places on land in Northern Ireland and apparatus located in Northern Ireland otherwise than on board ships; but persons appointed by the Department of the Environment for Northern Ireland shall have the like powers; and those subsections shall have effect accordingly in relation to persons so appointed.
- (6) The powers conferred by subsection (2)(a), (c) and (j) above shall also be exercisable, in relation to a ship in a harbour in the United Kingdom, by the harbour master or

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other persons appointed by the Secretary of State for the purpose, for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or a mixture containing oil from the ship into the harbour.

- (7) 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.
- (8) 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 (2)(f) above and subsection (11) below and provision as to the way in which samples that have been so taken are to be dealt with.
- (9) Where an inspector proposes to exercise the power conferred by subsection (2)(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.
- (10) Before exercising the power conferred by subsection (2)(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.
- (11) Where under the power conferred by subsection (2)(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.
- (12) No answer given by a person in pursuance of a requirement imposed under subsection (2)(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 section 260 in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in the said subsection (2)(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)**

- C112** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Noise at Work\) Regulations 2007 \(S.I. 2007/3075\)](#), regs. 1, **19**
- C113** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Vibration at Work\) Regulations 2007 \(S.I. 2007/3077\)](#), regs. 1, **18**
- C114** Ss. 258-266 applied (1.3.2008) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Carcinogens and Mutagens\) Regulations 2007 \(S.I. 2007/3100\)](#), regs. 1, **22**
- C118** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Work at Height\) Regulations 2010 \(S.I. 2010/332\)](#), regs. 1, **22** (with regs. 4, 5)



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- C119** Ss. 258-266 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010 (S.I. 2010/323), regs. 1, **27** (with regs. 4, 5)
- C120** Ss. 258-266 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (S.I. 2010/330), regs. 1, **20** (with regs. 4, 5)
- C121** Ss. 258-266 applied (6.4.2010) by The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010 (S.I. 2010/737), regs. 1(1), **19** (with reg. 5)
- C122** Ss. 258-266 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010 (S.I. 2010/2987), regs. 1, **16**
- C123** Ss. 258-266 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010 (S.I. 2010/2984), regs. 1, **26**
- C129** S. 259 modified (1.1.1996) by 1995 c. 22, ss. **5(6)**, 9(4)
- C130** S. 259 applied (with modifications) (8.12.2008) by The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924), regs. 1, **26** (with reg. 3)
- C131** S. 259 applied (8.12.2008) by The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924), regs. 1, **17(4)** (with reg. 3)
- C132** S. 259 applied (with modifications) (1.2.2009) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 (S.I. 2008/3257), regs. 1(2), **36** (with reg. 6(17))
- C133** S. 259 applied in part (with modifications) (1.12.2009) by The Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796), regs. 1, **10(4)** (with reg. 3)
- C134** S. 259 applied in part (with modifications) (15.8.2013) by The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785), regs. 1, **16(3)**
- C135** S. 259 applied in part (with modifications) (17.3.2014) by S.I. 2002/2125, **reg. 14(4)** (as substituted by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), regs. 1(2), **2(14)**)
- C136** S. 259 applied in part (with modifications) (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **54(3)**

## **260 Provisions supplementary to section 259.**

- (1) A person who—
  - (a) intentionally obstructs an inspector in the exercise of any power available to him under section 259; or
  - (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of section 259 or prevents another person from complying with such a requirement; or
  - (c) without prejudice to the generality of paragraph (b) above, 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 (2)(i) of section 259,shall be liable—
  - (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine or both.
- (2) Nothing in section 259 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,

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as the case may be, on an order for the production of documents in an action in the Court of Session.

- (3) A person who complies with a requirement imposed on him in pursuance of paragraph (i)(i) or (k) of subsection (2) of section 259 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.
- (4) Regulations under subsection (3) above may make different provision for different circumstances.
- (5) Any payments under subsection (3) above shall be made out of money provided by Parliament.

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

- C112** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Noise at Work\) Regulations 2007 \(S.I. 2007/3075\)](#), regs. 1, **19**
- C113** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Vibration at Work\) Regulations 2007 \(S.I. 2007/3077\)](#), regs. 1, **18**
- C114** Ss. 258-266 applied (1.3.2008) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Carcinogens and Mutagens\) Regulations 2007 \(S.I. 2007/3100\)](#), regs. 1, **22**
- C118** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Work at Height\) Regulations 2010 \(S.I. 2010/332\)](#), regs. 1, **22** (with regs. 4, 5)
- C119** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Biological Agents\) Regulations 2010 \(S.I. 2010/323\)](#), regs. 1, **27** (with regs. 4, 5)
- C120** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Chemical Agents\) Regulations 2010 \(S.I. 2010/330\)](#), regs. 1, **20** (with regs. 4, 5)
- C121** Ss. 258-266 applied (6.4.2010) by [The Merchant Shipping \(Maritime Labour Convention\) \(Medical Certification\) Regulations 2010 \(S.I. 2010/737\)](#), regs. 1(1), **19** (with reg. 5)
- C122** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Artificial Optical Radiation\) Regulations 2010 \(S.I. 2010/2987\)](#), regs. 1, **16**
- C123** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Asbestos\) Regulations 2010 \(S.I. 2010/2984\)](#), regs. 1, **26**
- C137** S. 260(1)(2) applied (with modifications) (1.12.2009) by [The Merchant Shipping \(Anti-Fouling Systems\) Regulations 2009 \(S.I. 2009/2796\)](#), regs. 1, **10(4)** (with reg. 3)
- C138** S. 260(1)(2) applied (with modifications) (15.8.2013) by [The Merchant Shipping \(Maritime Labour Convention\) \(Survey and Certification\) Regulations 2013 \(S.I. 2013/1785\)](#), regs. 1, **16(3)**
- C139** S. 260(1)(2) applied (with modifications) (17.3.2014) by S.I. 2002/2125, **reg. 14(4)** (as substituted by [The Merchant Shipping \(Maritime Labour Convention\) \(Hours of Work\) \(Amendment\) Regulations 2014 \(S.I. 2014/308\)](#), regs. 1(2), **2(14)**)
- C140** S. 260(1)(2) applied (with modifications) (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **54(3)**
- C141** S. 260(1)(2) applied (with modifications) (13.10.2014) by S.I. 1997/2962, **reg. 27A(3)** (as inserted by [The Merchant Shipping \(Maritime Labour Convention\) \(Health and Safety\) \(Amendment\) Regulations 2014 \(S.I. 2014/1616\)](#), regs. 1(2), **2(18)**)

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### *Improvement notices and prohibition notices*

#### **261 Improvement notices.**

- (1) If an inspector appointed under section 256(6) is of the opinion that a person—
  - (a) is contravening one or more of the relevant statutory provisions, or
  - (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,he may serve on that person a notice under this section, (referred to in the following sections of this Part as an improvement notice).
- (2) An improvement notice shall—
  - (a) state that the inspector is of the said opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion, and
  - (b) require the person on whom the notice is served to remedy the contravention in question or (as the case may be) the matters occasioning it within such period as may be specified in the notice.
- (3) The period specified in pursuance of subsection (2)(b) above shall not expire before the end of the period within which a notice can be given under section 264 requiring questions relating to the improvement notice to be referred to arbitration.
- (4) In this and the following sections of this Part “the relevant statutory provisions” means—
  - (a) sections 43, 44, 46 to 55, 85, 86, 88 (and Schedule 2), <sup>F277</sup> . . . <sup>F278</sup> . . . 99, 109, 115, 116, 121 to 126, 128, 129, 130 [<sup>F279</sup>130A], 131 to 151 and 272; and
  - (b) the provisions of any instrument of a legislative character having effect under any of those provisions.

#### **Textual Amendments**

**F277** Words in s. 261(4)(a) repealed (12.10.1998) by S.I. 1998/2241, **reg. 3(1)(b)**

**F278** Words in s. 261(4)(a) repealed (1.12.1998) by S.I. 1998/2647, **reg. 1(2)(b)**

**F279** Figure in s. 261(4)(a) substituted (19.3.1997) by 1997 c. 28, ss. 29(1), 31(4), **Sch. 6 para. 16**

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

**C112** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Noise at Work\) Regulations 2007](#) (S.I. 2007/3075), **regs. 1, 19**

**C113** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Vibration at Work\) Regulations 2007](#) (S.I. 2007/3077), **regs. 1, 18**

**C114** Ss. 258-266 applied (1.3.2008) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Carcinogens and Mutagens\) Regulations 2007](#) (S.I. 2007/3100), **regs. 1, 22**

**C118** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Work at Height\) Regulations 2010](#) (S.I. 2010/332), **regs. 1, 22** (with **regs. 4, 5**)

**C119** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Biological Agents\) Regulations 2010](#) (S.I. 2010/323), **regs. 1, 27** (with **regs. 4, 5**)

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- C120** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Chemical Agents\) Regulations 2010 \(S.I. 2010/330\)](#), regs. 1, **20** (with regs. 4, 5)
- C121** Ss. 258-266 applied (6.4.2010) by [The Merchant Shipping \(Maritime Labour Convention\) \(Medical Certification\) Regulations 2010 \(S.I. 2010/737\)](#), regs. 1(1), **19** (with reg. 5)
- C122** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Artificial Optical Radiation\) Regulations 2010 \(S.I. 2010/2987\)](#), regs. 1, **16**
- C123** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Asbestos\) Regulations 2010 \(S.I. 2010/2984\)](#), regs. 1, **26**
- C142** S. 261 modified (16.2.2001) by [S.I. 2001/152](#), **reg. 11(2)**
- C143** Ss. 261-266 applied (with modifications) (1.12.2009) by [The Merchant Shipping \(Anti-Fouling Systems\) Regulations 2009 \(S.I. 2009/2796\)](#), regs. 1, **10(5)** (with reg. 3)
- C144** Ss. 261-266 applied (with modifications) (15.8.2013) by [The Merchant Shipping \(Maritime Labour Convention\) \(Survey and Certification\) Regulations 2013 \(S.I. 2013/1785\)](#), regs. 1, **16(5)**
- C145** Ss. 261-266 applied (with modifications) (17.3.2014) by [S.I. 2002/2125](#), **reg. 14(6)** (as substituted by [The Merchant Shipping \(Maritime Labour Convention\) \(Hours of Work\) \(Amendment\) Regulations 2014 \(S.I. 2014/308\)](#), regs. 1(2), **2(14)**)
- C146** Ss. 261-266 applied (with modifications) (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **54(5)**
- C147** Ss. 261-266 applied (with modifications) (13.10.2014) by [S.I. 1997/2962](#), **reg. 27A(5)** (as inserted by [The Merchant Shipping \(Maritime Labour Convention\) \(Health and Safety\) \(Amendment\) Regulations 2014 \(S.I. 2014/1616\)](#), regs. 1(2), **2(18)**)

## 262 Prohibition notices.

- (1) If, as regards any relevant activities which are being or are likely to be carried on on board any ship by or under the control of any person, an inspector appointed under section 256(6) is of the opinion that, as so carried on or as likely to be so carried on, the activities involve or (as the case may be) will involve the risk of—
- (a) serious personal injury to any person (whether on board the ship or not), or
  - (b) serious pollution of any navigable waters,
- the inspector may serve on the first-mentioned person a notice under this section (referred to in the following sections of this Part as a “prohibition notice”).
- (2) In subsection (1) above “relevant activities” means activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are carried on as mentioned in that subsection, apply.
- (3) A prohibition notice shall—
- (a) state that the inspector is of the said opinion;
  - (b) specify the matters which in his opinion give or (as the case may be) will give rise to the said risk;
  - (c) where in his opinion any of those matters involve or (as the case may be) will involve a contravention of any of the relevant statutory provisions state that he is of that opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and
  - (d) direct—
    - (i) that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served, or
    - (ii) that the ship shall not go to sea,

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(or both of those things) unless the matters specified in the notice in pursuance of paragraph (b) above, and any associated contraventions of any provision so specified in pursuance of paragraph (c) above, have been remedied.

- (4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) above shall take effect—
- (a) at the end of a period specified in the notice, or
  - (b) if the direction is given in pursuance of subsection (3)(d)(ii) above or the notice so declares, immediately.

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

- C112** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Noise at Work\) Regulations 2007 \(S.I. 2007/3075\)](#), regs. 1, **19**
- C113** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Vibration at Work\) Regulations 2007 \(S.I. 2007/3077\)](#), regs. 1, **18**
- C114** Ss. 258-266 applied (1.3.2008) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Carcinogens and Mutagens\) Regulations 2007 \(S.I. 2007/3100\)](#), regs. 1, **22**
- C118** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Work at Height\) Regulations 2010 \(S.I. 2010/332\)](#), regs. 1, **22** (with regs. 4, 5)
- C119** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Biological Agents\) Regulations 2010 \(S.I. 2010/323\)](#), regs. 1, **27** (with regs. 4, 5)
- C120** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Chemical Agents\) Regulations 2010 \(S.I. 2010/330\)](#), regs. 1, **20** (with regs. 4, 5)
- C121** Ss. 258-266 applied (6.4.2010) by [The Merchant Shipping \(Maritime Labour Convention\) \(Medical Certification\) Regulations 2010 \(S.I. 2010/737\)](#), regs. 1(1), **19** (with reg. 5)
- C122** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Artificial Optical Radiation\) Regulations 2010 \(S.I. 2010/2987\)](#), regs. 1, **16**
- C123** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Asbestos\) Regulations 2010 \(S.I. 2010/2984\)](#), regs. 1, **26**
- C143** Ss. 261-266 applied (with modifications) (1.12.2009) by [The Merchant Shipping \(Anti-Fouling Systems\) Regulations 2009 \(S.I. 2009/2796\)](#), regs. 1, **10(5)** (with reg. 3)
- C144** Ss. 261-266 applied (with modifications) (15.8.2013) by [The Merchant Shipping \(Maritime Labour Convention\) \(Survey and Certification\) Regulations 2013 \(S.I. 2013/1785\)](#), regs. 1, **16(5)**
- C145** Ss. 261-266 applied (with modifications) (17.3.2014) by [S.I. 2002/2125, reg. 14\(6\)](#) (as substituted by [The Merchant Shipping \(Maritime Labour Convention\) \(Hours of Work\) \(Amendment\) Regulations 2014 \(S.I. 2014/308\)](#), regs. 1(2), **2(14)**)
- C146** Ss. 261-266 applied (with modifications) (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **54(5)**
- C147** Ss. 261-266 applied (with modifications) (13.10.2014) by [S.I. 1997/2962, reg. 27A\(5\)](#) (as inserted by [The Merchant Shipping \(Maritime Labour Convention\) \(Health and Safety\) \(Amendment\) Regulations 2014 \(S.I. 2014/1616\)](#), regs. 1(2), **2(18)**)

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## 263 Provisions supplementary to sections 261 and 262.

- (1) An improvement notice or a prohibition notice may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.
- (2) An improvement notice or a prohibition notice shall not direct any measures to be taken to remedy the contravention of any of the relevant statutory provisions that are more onerous than those necessary to secure compliance with that provision.
- (3) Where an improvement notice or a prohibition notice that is not to take immediate effect has been served—
  - (a) the notice may be withdrawn by an inspector at any time before the end of the period specified in it in pursuance of section 261(2)(b) or (as the case may be) section 262(4); and
  - (b) the period so specified may be extended or further extended by an inspector at any time when a reference to arbitration in respect of the notice is not pending under section 264.

### Modifications etc. (not altering text)

- C112** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Noise at Work\) Regulations 2007 \(S.I. 2007/3075\)](#), regs. 1, **19**
- C113** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Vibration at Work\) Regulations 2007 \(S.I. 2007/3077\)](#), regs. 1, **18**
- C114** Ss. 258-266 applied (1.3.2008) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Carcinogens and Mutagens\) Regulations 2007 \(S.I. 2007/3100\)](#), regs. 1, **22**
- C118** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Work at Height\) Regulations 2010 \(S.I. 2010/332\)](#), regs. 1, **22** (with regs. 4, 5)
- C119** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Biological Agents\) Regulations 2010 \(S.I. 2010/323\)](#), regs. 1, **27** (with regs. 4, 5)
- C120** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Chemical Agents\) Regulations 2010 \(S.I. 2010/330\)](#), regs. 1, **20** (with regs. 4, 5)
- C121** Ss. 258-266 applied (6.4.2010) by [The Merchant Shipping \(Maritime Labour Convention\) \(Medical Certification\) Regulations 2010 \(S.I. 2010/737\)](#), regs. 1(1), **19** (with reg. 5)
- C122** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Artificial Optical Radiation\) Regulations 2010 \(S.I. 2010/2987\)](#), regs. 1, **16**
- C123** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Asbestos\) Regulations 2010 \(S.I. 2010/2984\)](#), regs. 1, **26**
- C143** Ss. 261-266 applied (with modifications) (1.12.2009) by [The Merchant Shipping \(Anti-Fouling Systems\) Regulations 2009 \(S.I. 2009/2796\)](#), regs. 1, **10(5)** (with reg. 3)
- C144** Ss. 261-266 applied (with modifications) (15.8.2013) by [The Merchant Shipping \(Maritime Labour Convention\) \(Survey and Certification\) Regulations 2013 \(S.I. 2013/1785\)](#), regs. 1, **16(5)**
- C145** Ss. 261-266 applied (with modifications) (17.3.2014) by [S.I. 2002/2125, reg. 14\(6\)](#) (as substituted by [The Merchant Shipping \(Maritime Labour Convention\) \(Hours of Work\) \(Amendment\) Regulations 2014 \(S.I. 2014/308\)](#), regs. 1(2), **2(14)**)

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- C146** Ss. 261-266 applied (with modifications) (7.8.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Minimum Requirements for Seafarers etc.\) Regulations 2014 \(S.I. 2014/1613\)](#), regs. 1(2), **54(5)**
- C147** Ss. 261-266 applied (with modifications) (13.10.2014) by [S.I. 1997/2962, reg. 27A\(5\)](#) (as inserted by [The Merchant Shipping \(Maritime Labour Convention\) \(Health and Safety\) \(Amendment\) Regulations 2014 \(S.I. 2014/1616\)](#), regs. 1(2), **2(18)**)
- C148** S. 263 modified (16.2.2001) by [S.I. 2001/152, reg. 11\(2\)](#)

## 264 References of notices to arbitration.

- (1) Any question—
- (a) as to whether any of the reasons or matters specified in an improvement notice or a prohibition notice in pursuance of section 261(2)(a) or 262(3)(b) or (c) in connection with any opinion formed by the inspector constituted a valid basis for that opinion, or
  - (b) as to whether any directions included in the notice in pursuance of section 263(1) were reasonable,
- shall, if the person on whom the notice was served so requires by a notice given to the inspector within 21 days from the service of the notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.
- (2) Where a notice is given by a person in accordance with subsection (1) above, then—
- (a) in the case of an improvement notice, the giving of the notice shall have the effect of suspending the operation of the improvement notice until the decision of the arbitrator is published to the parties or the reference is abandoned by that person;
  - (b) in the case of a prohibition notice, the giving of the notice shall have the effect of so suspending the operation of the prohibition notice if, but only if, on the application of that person the arbitrator so directs (and then only from the giving of the direction).
- (3) Where on a reference under this section the arbitrator decides as respects any reason, matter or direction to which the reference relates, that in all the circumstances—
- (a) the reason or matter did not constitute a valid basis for the inspector's opinion, or
  - (b) the direction was unreasonable,
- he shall either cancel the notice or affirm it with such modifications as he may in the circumstances think fit; and in any other case the arbitrator shall affirm the notice in its original form.
- (4) Where any reference under this section involves the consideration by the arbitrator of the effects of any particular activities or state of affairs on the health or safety of any persons, he shall not on that reference make any decision such as is mentioned in subsection (3)(a) or (b) above except after—
- (a) in the case of an improvement notice, affording an opportunity of making oral representations to him with respect to those effects to a member of any such panel of representatives of maritime trade unions as may be appointed by the Secretary of State for the purposes of this subsection; or
  - (b) in the case of a prohibition notice, affording an opportunity of making such representations to him to either—

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- (i) a representative of a trade union representing persons whose interests it appears to him that the notice was designed to safeguard, or
  - (ii) a member of any such panel as is referred to in paragraph (a) above, as he thinks appropriate; and
  - (c) (in either case) considering any representations made to him in pursuance of paragraph (a) or (b) above.
- (5) A person shall not be qualified for appointment as an arbitrator under this section unless he is—
- (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or a person holding a certificate equivalent to any such certificate;
  - (b) a naval architect;
  - (c) a person falling with subsection (6); or
  - (d) a person with special experience of shipping matters, of the fishing industry, or of activities carried on in ports.
- (6) For the purposes of subsection (5)(c) a person falls within this subsection if—
- [<sup>F280</sup>(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;]
  - (b) he is an advocate or solicitor in Scotland of at least [<sup>F281</sup>7] years' standing; or
  - (c) he is a member of the bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least [<sup>F282</sup>7] years' standing.
- (7) In connection with his functions under this section an arbitrator shall have the powers conferred on an inspector by section 259 other than subsections (3), (4) and (6).
- (8) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in subsection (1) above to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by the sheriff.
- <sup>F283</sup>(9) .....

#### Textual Amendments

- F280** S. 264(6)(a) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 26\(2\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F281** Word in s. 264(6)(b) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 26\(3\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F282** Word in s. 264(6)(c) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 26\(3\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F283** S. 264(9) repealed (31.1.1997) by [1996 c. 23](#), s. 107(2), [Sch. 4](#) (with s. 81(2)); S.I. 1996/3146, [art. 3](#) (with [art. 4](#), [Sch. 2](#))

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

- C112** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Noise at Work\) Regulations 2007 \(S.I. 2007/3075\)](#), regs. 1, [19](#)
- C113** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Vibration at Work\) Regulations 2007 \(S.I. 2007/3077\)](#), regs. 1, [18](#)



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- C114** Ss. 258-266 applied (1.3.2008) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 (S.I. 2007/3100), regs. 1, **22**
- C118** Ss. 258-266 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010 (S.I. 2010/332), regs. 1, **22** (with regs. 4, 5)
- C119** Ss. 258-266 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010 (S.I. 2010/323), regs. 1, **27** (with regs. 4, 5)
- C120** Ss. 258-266 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (S.I. 2010/330), regs. 1, **20** (with regs. 4, 5)
- C121** Ss. 258-266 applied (6.4.2010) by The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010 (S.I. 2010/737), regs. 1(1), **19** (with reg. 5)
- C122** Ss. 258-266 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010 (S.I. 2010/2987), regs. 1, **16**
- C123** Ss. 258-266 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010 (S.I. 2010/2984), regs. 1, **26**
- C143** Ss. 261-266 applied (with modifications) (1.12.2009) by The Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796), regs. 1, **10(5)** (with reg. 3)
- C144** Ss. 261-266 applied (with modifications) (15.8.2013) by The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785), regs. 1, **16(5)**
- C145** Ss. 261-266 applied (with modifications) (17.3.2014) by S.I. 2002/2125, **reg. 14(6)** (as substituted by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), regs. 1(2), **2(14)**)
- C146** Ss. 261-266 applied (with modifications) (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **54(5)**
- C147** Ss. 261-266 applied (with modifications) (13.10.2014) by S.I. 1997/2962, **reg. 27A(5)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014 (S.I. 2014/1616), regs. 1(2), **2(18)**)
- C149** S. 264 modified (16.2.2001) by S.I. 2001/152, **reg. 11(2)**  
S. 264 applied (16.2.2001) by S.I. 2001/152, **reg. 13(3)**  
Ss. 264-266 applied (with modifications) (16.2.2001) by S.I. 2001/152, **reg. 9(3)**
- C150** S. 264 applied (20.4.2010) by The Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010 (S.I. 2010/1075), regs. 1(2), **12(7)(b)** (with reg. 3)
- C151** S. 264 applied (with modifications) (24.11.2011) by The Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601), regs. 1(2), **14(4)**

## **265 Compensation in connection with invalid prohibition notices.**

- (1) If on a reference under section 264 relating to a prohibition notice—
- (a) the arbitrator decides that any reason or matter did not constitute a valid basis for the inspector's opinion, and
  - (b) it appears to him that there were no reasonable grounds for the inspector to form that opinion,
- the arbitrator may, subject to subsection (3) below, award the person on whom the notice was served such compensation in respect of any loss suffered by him in consequence of the service of the notice as the arbitrator thinks fit.
- (2) If on any such reference the arbitrator decides that any direction included in the notice was unreasonable, the arbitrator may, subject to subsection (3) below, award the person

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on whom the notice was served such compensation in respect of any loss suffered by him in consequence of the direction as the arbitrator thinks fit.

- (3) An arbitrator shall not award any compensation under subsection (1) or (2) above in the case of any prohibition notice unless—
- (a) it appears to him that the direction given in pursuance of section 262(3)(d) contained any such requirement as is mentioned in subparagraph (ii) of that provision; or
  - (b) it appears to him that—
    - (i) the inspector was of the opinion that there would be such a risk of injury or pollution as is referred to in the notice if the ship went to sea, and
    - (ii) the effect of the direction given in pursuance of section 262(3)(d) was to prohibit the departure of the ship unless the matters, or (as the case may be) the matters and contraventions, referred to in the direction were remedied.
- (4) Any compensation awarded under this section shall be payable by the Secretary of State.
- (5) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter.

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

- C112** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Noise at Work\) Regulations 2007 \(S.I. 2007/3075\)](#), regs. 1, **19**
- C113** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by [The Merchant Shipping and Fishing Vessels \(Control of Vibration at Work\) Regulations 2007 \(S.I. 2007/3077\)](#), regs. 1, **18**
- C114** Ss. 258-266 applied (1.3.2008) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Carcinogens and Mutagens\) Regulations 2007 \(S.I. 2007/3100\)](#), regs. 1, **22**
- C118** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Work at Height\) Regulations 2010 \(S.I. 2010/332\)](#), regs. 1, **22** (with regs. 4, 5)
- C119** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Biological Agents\) Regulations 2010 \(S.I. 2010/323\)](#), regs. 1, **27** (with regs. 4, 5)
- C120** Ss. 258-266 applied (with modifications) (6.4.2010) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Chemical Agents\) Regulations 2010 \(S.I. 2010/330\)](#), regs. 1, **20** (with regs. 4, 5)
- C121** Ss. 258-266 applied (6.4.2010) by [The Merchant Shipping \(Maritime Labour Convention\) \(Medical Certification\) Regulations 2010 \(S.I. 2010/737\)](#), regs. 1(1), **19** (with reg. 5)
- C122** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Artificial Optical Radiation\) Regulations 2010 \(S.I. 2010/2987\)](#), regs. 1, **16**
- C123** Ss. 258-266 applied (10.1.2011) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Asbestos\) Regulations 2010 \(S.I. 2010/2984\)](#), regs. 1, **26**
- C143** Ss. 261-266 applied (with modifications) (1.12.2009) by [The Merchant Shipping \(Anti-Fouling Systems\) Regulations 2009 \(S.I. 2009/2796\)](#), regs. 1, **10(5)** (with reg. 3)
- C144** Ss. 261-266 applied (with modifications) (15.8.2013) by [The Merchant Shipping \(Maritime Labour Convention\) \(Survey and Certification\) Regulations 2013 \(S.I. 2013/1785\)](#), regs. 1, **16(5)**

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- C145** Ss. 261-266 applied (with modifications) (17.3.2014) by S.I. 2002/2125, **reg. 14(6)** (as substituted by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), regs. 1(2), **2(14)**)
- C146** Ss. 261-266 applied (with modifications) (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **54(5)**
- C147** Ss. 261-266 applied (with modifications) (13.10.2014) by S.I. 1997/2962, **reg. 27A(5)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014 (S.I. 2014/1616), regs. 1(2), **2(18)**)
- C152** Ss. 264-266 applied (with modifications) (16.2.2001) by S.I. 2001/152, **reg. 9(3)**
- C153** S. 265 applied (with modifications) (24.11.2011) by The Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601), regs. 1(2), **14(4)**

## 266 Offences.

- (1) Any person who contravenes any requirement imposed by an improvement notice shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (2) Any person who contravenes any prohibition imposed by a prohibition notice shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (3) It shall be a defence for a person charged with an offence under this section to prove that he exercised all due diligence to avoid a contravention of the requirement or prohibition in question.
- (4) In this section any reference to an improvement notice or a prohibition notice includes a reference to any such notice as modified under section 264(3).

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### Modifications etc. (not altering text)

- C112** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007 (S.I. 2007/3075), regs. 1, **19**
- C113** Ss. 258-266 applied (with application in accordance with reg. 4 of the amending S.I.) by The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007 (S.I. 2007/3077), regs. 1, **18**
- C114** Ss. 258-266 applied (1.3.2008) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 (S.I. 2007/3100), regs. 1, **22**
- C118** Ss. 258-266 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010 (S.I. 2010/332), regs. 1, **22** (with regs. 4, 5)
- C119** Ss. 258-266 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010 (S.I. 2010/323), regs. 1, **27** (with regs. 4, 5)
- C120** Ss. 258-266 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (S.I. 2010/330), regs. 1, **20** (with regs. 4, 5)

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- C121** Ss. 258-266 applied (6.4.2010) by The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010 (S.I. 2010/737), regs. 1(1), **19** (with reg. 5)
- C122** Ss. 258-266 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010 (S.I. 2010/2987), regs. 1, **16**
- C123** Ss. 258-266 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010 (S.I. 2010/2984), regs. 1, **26**
- C143** Ss. 261-266 applied (with modifications) (1.12.2009) by The Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796), regs. 1, **10(5)** (with reg. 3)
- C144** Ss. 261-266 applied (with modifications) (15.8.2013) by The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785), regs. 1, **16(5)**
- C145** Ss. 261-266 applied (with modifications) (17.3.2014) by S.I. 2002/2125, **reg. 14(6)** (as substituted by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), regs. 1(2), **2(14)**)
- C146** Ss. 261-266 applied (with modifications) (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **54(5)**
- C147** Ss. 261-266 applied (with modifications) (13.10.2014) by S.I. 1997/2962, **reg. 27A(5)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014 (S.I. 2014/1616), regs. 1(2), **2(18)**)
- C154** S. 266 modified (16.2.2001) by S.I. 2001/152, **reg. 11(2)**  
 Ss. 264-266 applied (with modifications) (16.2.2001) by S.I. 2001/152, **reg. 9(3)**

## PART XI

### ACCIDENT INVESTIGATIONS AND INQUIRIES

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

- C155** Pt. XI applied (with modifications) (1.9.2002) by S.I. 2002/1587, **reg. 17(1)**

#### *Marine accident investigations*

#### **267 Investigation of marine accidents.**

- (1) The Secretary of State shall, for the purpose of the investigation of any such accidents as are mentioned in subsection (2) below, appoint such number of persons as he may determine to be inspectors of marine accidents, and he shall appoint one of those persons to be Chief Inspector of Marine Accidents.
- (2) The accidents referred to in subsection (1) above are—
  - (a) any accident involving a ship or ship's boat where, at the time of the accident—
    - (i) the ship is a United Kingdom ship, or
    - (ii) the ship, or (in the case of an accident involving a ship's boat) that boat, is within United Kingdom waters, and
  - (b) such other accidents involving ships or ships' boats as the Secretary of State may determine.

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- (3) The Secretary of State may by regulations make such provision as he considers appropriate with respect to the investigation of any such accidents as are mentioned in subsection (2) above.
- (4) Any such regulations may, in particular, make provision—
- (a) with respect to the definition of “accident” for the purposes of this section and the regulations;
  - (b) imposing requirements as to the reporting of accidents;
  - (c) prohibiting, pending investigation, access to or interference with any ship or ship’s boat involved in an accident;
  - (d) authorising any person, so far as may be necessary for the purpose of determining whether an investigation should be carried out, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such ship or boat or any other ship or ship’s boat;
  - (e) specifying, with respect to the investigation of accidents, the functions of the Chief Inspector of Marine Accidents (which may include the function of determining whether, and if so by whom, particular accidents should be investigated), the functions of other inspectors of marine accidents, and the manner in which any such functions are to be discharged;
  - (f) for the appointment by the Chief Inspector of Marine Accidents, in such circumstances as may be specified in the regulations, of persons to carry out investigations under this section who are not inspectors of marine accidents;
  - (g) for the appointment by any Minister of the Crown of persons to review any findings or conclusions of a person carrying out an investigation under this section;
  - (h) for the procedure to be followed in connection with investigations or reviews under this section;
  - (i) for conferring on persons discharging functions under the regulations who are not inspectors of marine accidents all or any of the powers conferred on an inspector by section 259;
  - (j) for the submission to the Secretary of State, and the publication by him, of reports of investigations or reviews under this section;
  - (k) for the publication by the Chief Inspector of Marine Accidents of reports and other information relating to accidents.
- (5) Regulations under this section may provide for any provisions of the regulations to apply to any specified class or description of incidents or situations which involve, or occur on board, ships or ships’ boats but are not accidents for the purposes of the regulations, being a class or description framed by reference to any of the following, namely—
- (a) the loss or destruction of or serious damage to any ship or structure,
  - (b) the death of or serious injury to any person, or
  - (c) environmental damage,
- whether actually occurring or not, and (subject to such modifications as may be specified in the regulations) for those provisions to apply in relation to any such incidents or situations as they apply in relation to accidents.
- (6) Regulations under this section may provide 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 a fine.

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- (7) The Chief Inspector of Marine Accidents, or (as the case may be) inspectors of marine accidents generally, shall discharge such functions in addition to those conferred by or under the preceding provisions of this section as the Secretary of State may determine.
- (8) Any inspector of marine accidents shall, for the purpose of discharging any functions conferred on him by or under this section, have the powers conferred on an inspector by section 259.
- (9) Nothing in this section shall limit the powers of any authority under sections 252, 253 and 254.
- (10) In this section—
  - (a) references to an accident involving a ship or ship’s boat include references to an accident occurring on board a ship or ship’s boat (and any reference to a ship or ship’s boat involved in an accident shall be construed accordingly); and
  - (b) “ship’s boat” includes a life-raft.

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

C156 S. 267 applied (with modifications) (1.9.2002) by [S.I. 2002/1587](#), [reg. 17\(2\)](#), (with reg. 3)

**268 Formal investigation into marine accidents.**

- (1) Where any accident has occurred, the Secretary of State may (whether or not an investigation into it has been carried out under section 267) cause a formal investigation into the accident to be held—
  - (a) if in England, Wales or Northern Ireland, by a wreck commissioner, and
  - (b) if in Scotland, by the sheriff;
 and in this section “accident” means any accident to which regulations under that section apply or any incident or situation to which any such regulations apply by virtue of subsection (5) of that section.
- (2) A wreck commissioner or sheriff holding a formal investigation shall conduct it in accordance with rules under section 270(1); and those rules shall require the assistance of one or more assessors and, if any question as to the cancellation or suspension of an officer’s certificate is likely, the assistance of not less than two assessors.
- (3) Subsections (1), (3) and (4) of section 97 of the <sup>M51</sup>Magistrates’ Courts Act 1980 (which provide for the attendance of witnesses and the production of evidence) shall apply in relation to a formal investigation held by a wreck commissioner as if the wreck commissioner were a magistrates’ court and the investigation a complaint; and the wreck commissioner shall have power to administer oaths for the purposes of the investigation.
- (4) Where a formal investigation is held in Scotland the sheriff shall, subject to any rules made under section 270(1), dispose of it as a summary application, and, subject to section 269, his decision on the investigation shall be final.
- (5) If as a result of the investigation the wreck commissioner or sheriff is satisfied, with respect to any officer, of any of the matters mentioned in paragraphs (a) to (c) of section 61(1) and, if it is a matter mentioned in paragraph (a) or (b) of that section, is further satisfied that it caused or contributed to the accident, he may cancel or suspend any certificate issued to the officer under section 47 or censure him; and if he cancels or

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- suspends the certificate the officer shall deliver it forthwith to him or to the Secretary of State.
- (6) If a person fails to deliver a certificate as required under subsection (5) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Where a certificate has been cancelled or suspended under this section, the Secretary of State, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.
- (8) The wreck commissioner or sheriff may make such awards as he thinks just with regard to the costs (or, as the case may be, expenses) of the investigation and of any parties at the investigation, and with regard to the parties by whom those costs or expenses are to be paid; and any such award of the wreck commissioner may, on the application of any party named in it, be made an order of the High Court.
- (9) Any costs or expenses directed by an award to be paid shall be taxable—
- (a) in the High Court, or
  - (b) where the investigation was held in Scotland, by the auditor of the sheriff court in which it was held and in accordance with the table of fees regulating the taxation of solicitors' accounts.
- (10) The wreck commissioner or sheriff shall make a report on the investigation to the Secretary of State.
- (11) In its application to Northern Ireland this section shall have effect as if in subsection (3) above for the references to subsections (1), (3) and (4) of section 97 of the <sup>M52</sup>Magistrates' Courts Act 1980 there were substituted references to paragraphs (1) and (3) of Article 118 and paragraph (1) of Article 120 of the <sup>M53</sup>Magistrates' Courts (Northern Ireland) Order 1981.

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

C157 S. 268 applied (with modifications) (1.9.2002) by [S.I. 2002/1587](#), [reg. 17\(3\)](#), (with reg. 3)

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**Marginal Citations**

**M51** 1980 c. 43.

**M52** 1980 c. 43.

**M53** [S.I. 1981/1675](#) (NI 26)

**269 Re-hearing of and appeal from investigations.**

- (1) Where a formal investigation has been held under section 268 the Secretary of State may order the whole or part of the case to be re-heard, and shall do so—
- (a) if new and important evidence which could not be produced at the investigation has been discovered; or
  - (b) if there appear to the Secretary of State to be other grounds for suspecting that a miscarriage of justice may have occurred.
- (2) An order under subsection (1) above may provide for the re-hearing to be as follows—

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- (a) if the investigation was held in England, Wales or Northern Ireland, by a wreck commissioner or by the High Court;
  - (b) if it was held in Scotland, by the sheriff or by the Court of Session.
- (3) Any re-hearing under this section which is not held by the High Court or the Court of Session shall be conducted in accordance with rules made under section 270(1); and section 268 shall apply in relation to a re-hearing of an investigation by a wreck commissioner or sheriff as it applies in relation to the holding of an investigation.
- (4) Where the wreck commissioner or sheriff holding the investigation has decided to cancel or suspend the certificate of any person or has found any person at fault, then, if no application for an order under subsection (1) above has been made or such an application has been refused, that person or any other person who, having an interest in the investigation, has appeared at the hearing and is affected by the decision or finding, may appeal—
- (a) to the High Court if the investigation was held in England, Wales or Northern Ireland;
  - (b) to the Court of Session if it was held in Scotland.
- (5) Section 268(7) applies for the purposes of this section as it applies for the purposes of that section.

## **270 Rules as to investigations and appeals.**

- (1) The Secretary of State may make rules for the conduct of formal investigations under section 268 and for the conduct of any re-hearing under section 269 which is not held by the High Court or the Court of Session.
- (2) Without prejudice to the generality of subsection (1) above, rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.
- (3) Rules of court made for the purpose of re-hearings under section 269 which are held by the High Court, or of appeals to the High Court, may require the court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a re-hearing or hear such an appeal with the assistance of one or more assessors.

### *Inquiries into and reports on deaths and injuries*

## **271 Inquiries into deaths of crew members and others.**

- (1) Subject to subsection (6) below, where—
- (a) any person dies in a United Kingdom ship or in a boat or life-raft from such a ship, or
  - (b) the master of or a seaman employed in such a ship dies in a country outside the United Kingdom,
- an inquiry into the cause of the death shall be held by a superintendent or proper officer at the next port where the ship calls after the death and where there is a superintendent or proper officer, or at such other place as the Secretary of State may direct.
- (2) Subject to subsection (6) below, where it appears to the Secretary of State that—



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- (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 United Kingdom ship, 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 on which 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.
- (3) Subject to subsection (6) below, where it appears to the Secretary of State that a person may—
- (a) have died in a United Kingdom ship or in a boat or life-raft from such a ship, or
- (b) have been lost from such a ship, boat or life-raft and have died in consequence of being 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 mentioned above and, if the superintendent or officer finds that he did, into the cause of the death.
- (4) The superintendent or proper officer holding the inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by section 259.
- (5) The person holding the inquiry shall make a report of his findings to the Secretary of State who shall make the report available—
- (a) if the person to whom the report relates was employed in the ship and a person was named as his next of kin in the crew agreement or list of the crew in which the name of the person to whom the report relates last appeared, to the person so named;
- (b) in any case, to any person requesting it who appears to the Secretary of State to be interested.
- (6) No inquiry shall be held under this section [<sup>F284</sup>where—
- (a) in England and Wales, an investigation is to be conducted under Part 1 of the Coroners and Justice Act 2009;
- (b) in Northern Ireland, an inquest is to be held under the Coroners Act (Northern Ireland) 1959;
- (c) in Scotland, an enquiry is to be held under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.]

#### Textual Amendments

**F284** S. 271(6)(a)-(c) and word substituted for words (25.7.2013) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(4)(e), [Sch. 21 para. 34](#) (with s. 180); S.I. 2013/1869, [art. 2\(o\)\(xv\)](#)

## 272 Reports of and inquiries into injuries.

- (1) Where the master or a member of the crew of a United Kingdom fishing vessel is injured during a voyage, an inquiry into the cause and nature of the injury may be held by a superintendent or proper officer.
- (2) The superintendent or proper officer holding an inquiry under this section shall, for the purposes of the inquiry, have the powers conferred on a Departmental inspector by section 259 and shall make a report of his findings to the Secretary of State.

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## 273 Transmission of particulars of certain deaths on ships.

[<sup>F285</sup>(1)] Where—

- (a) an inquest is held into a death [<sup>F286</sup>or subsection (2) below applies; and]
- (b) it appears to the coroner that the death in question is such as is mentioned in section 108(2) or in that subsection as extended (with or without amendments) by virtue of section 307,

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.

[<sup>F287</sup>(2)] This subsection applies where—

- (a) in England and Wales, an investigation under Part 1 of the Coroners and Justice Act 2009 into a person's death is discontinued under section 4 of that Act (cause of death revealed by post-mortem examination); or
- (b) in Northern Ireland, a preliminary investigation is made of a dead body as a result of which the coroner is satisfied that an inquest is unnecessary.]

### Textual Amendments

**F285** S. 273 renumbered as s. 273(1) (25.7.2013) by Coroners and Justice Act 2009 (c. 25), s. 182(4)(e), **Sch. 21 para. 35(3)** (with s. 180); S.I. 2013/1869, art. 2(o)(xv)

**F286** Words in s. 273(1)(a) substituted (25.7.2013) by Coroners and Justice Act 2009 (c. 25), s. 182(4)(e), **Sch. 21 para. 35(2)** (with s. 180); S.I. 2013/1869, art. 2(o)(xv)

**F287** S. 273(2) inserted (25.7.2013) by Coroners and Justice Act 2009 (c. 25), s. 182(4)(e), **Sch. 21 para. 35(3)** (with s. 180); S.I. 2013/1869, art. 2(o)(xv)

## PART XII

### LEGAL PROCEEDINGS

### Modifications etc. (not altering text)

**C158** Pt. XII (Ss. 274-291) applied (1.1.1996) by 1995 c. 22, **ss. 7(1), 9(4)**

### *Prosecution of offences*

## 274 Time limit for summary offences.

(1) Subject to subsections (2) and (3) below, no person shall be convicted of an offence under this Act in summary proceedings unless—

- (a) the proceedings were commenced within six months beginning with the date on which the offence was committed; or
- (b) in a case where the accused happens during that period to be out of the United Kingdom, the proceedings were commenced within two months after he first happens to arrive within the United Kingdom and before the expiration of three years beginning with the date on which the offence was committed.

(2) Nothing in subsection (1) above shall apply in relation to any indictable offence.

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- (3) Subsection (1) above 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 paragraph (a) above if throughout that period the accused was absent from the United Kingdom.
- (4) For the purpose of subsection (3) above—
- (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.
- (5) In the application of this section to Scotland—
- (a) in subsection (3)(a) above, 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 (4)(a) and (b) above, for the words “Secretary of State” there shall be substituted the words “ Lord Advocate or the Secretary of State, as the case may be, ”.

**275 Time limit for summary orders.**

No order for the payment of money shall be made under this Act in proceedings before a magistrates’ court unless—

- (a) the proceedings were commenced within six months beginning with the date on which the matter of complaint arose; or
- (b) in a case where both or either of the parties to the proceedings happen during that period to be out of the United Kingdom, the proceedings were commenced within six months after they both first happen to arrive, or to be at one time, within the United Kingdom.

**276 Summary offences: Scotland.**

In Scotland 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 level 4 on the standard scale or both may be tried in a summary manner before the district court.

**277 Offences by officers of bodies corporate.**

- (1) Where a body corporate is guilty of an offence under this Act or any instrument made under it, and that offence is proved to have been committed with the consent

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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 such a 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, subsection (1) above 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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**Modifications etc. (not altering text)**

- C159** S. 277 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, [Sch. 1](#)  
S. 277 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, [Sch. 1](#)  
s. 277 applied (20.1.1998) by [S.I. 1997/3022](#), [reg. 7](#)

**[<sup>F288</sup>277A Accessories and abettors**

Any person who-knowingly or wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Act shall be liable to be dealt with, tried and punished as a principal offender.]

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**Textual Amendments**

- F288** S. 277A inserted (Jersey) (1.12.1997) by [S.I. 1997/2598](#), [art. 3](#) and (Guernsey) (11.3.1998) by [S.I. 1998/260](#), [art. 3](#)

**278 Offences by partners, etc. in Scotland.**

Where, in Scotland, a partnership or unincorporated association (other than a partnership) is guilty of an offence under this Act or any instrument made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership or, as the case may be, a person concerned in the management or control of the association, he as well as the partnership or association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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

- C160** S. 277 applied (20.1.1998) by [S.I. 1997/3022](#), [reg. 7](#)

*Jurisdiction*

**279 Jurisdiction in relation to offences.**

- (1) For the purpose of conferring jurisdiction, any offence under this Act shall be deemed to have been committed in any place in the United Kingdom where the offender may for the time being be.

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- (2) For the same purpose, any matter of complaint under this Act shall be deemed to have arisen in any place in the United Kingdom where the person complained against may for the time being be.
- (3) The jurisdiction under subsections (1) and (2) above shall be in addition to and not in derogation of any jurisdiction or power of a court under any other enactment.

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

**C161** S. 279 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1  
s. 179 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, [Sch. 1](#)

**280 Jurisdiction over ships lying off coasts.**

- (1) Where the area within which a court in any part of the United Kingdom has jurisdiction is situated on the coast of any sea or abuts on or projects into any bay, channel, lake, river or other navigable water the court shall have jurisdiction as respects offences under this Act over any vessel being on, or lying or passing off, that coast or being in or near that bay, channel, lake, river or navigable water and over all persons on board that vessel or for the time being belonging to it.
- (2) The jurisdiction under subsection (1) above shall be in addition to and not in derogation of any jurisdiction or power of a court under the <sup>M54</sup>Magistrates' Courts Act 1980 or the <sup>M55</sup>Magistrates' Courts (Northern Ireland) Order 1981.

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

**C162** S. 280 applied (1.1.1996) by [1980 c. 43, s. 3A](#) (as inserted (1.1.1996) by [1995 c. 21, ss. 314\(2\), 316\(2\), Sch. 13 para. 55](#) (with [s. 312\(1\)](#)))  
S. 280 applied (1.1.1996) by [1981 c. 54, s. 46A](#) (as inserted (1.1.1996) by [1995 c. 21, ss. 314\(2\), 316\(2\), Sch. 13 para. 59\(4\)](#) (with [s. 312\(1\)](#)))

**Marginal Citations**

**M54** [1980 c. 43](#).  
**M55** [S.I. 1981/1675](#) (NI 26).

**281 Jurisdiction in case of offences on board ship.**

Where any person is charged with having committed any offence under this Act then—

- (a) if he is a British citizen and is charged with having committed it—
  - (i) on board any United Kingdom ship on the high seas,
  - (ii) in any foreign port or harbour, or
  - (iii) on board any foreign ship to which he does not belong; or
- (b) if he is not a British citizen and is charged with having committed it on board any United Kingdom ship on the high seas;

and he is found within the jurisdiction of any court in any part of the United Kingdom which would have had jurisdiction in relation to the offence if it had been committed on board a United Kingdom ship within the limits of its ordinary jurisdiction to try the offence that court shall have jurisdiction to try the offence as if it had been so committed.

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

- C163** S. 281 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 281 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
S. 281 applied (1.1.1996) by 1980 c. 43, s. 3A (as inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 55** (with s. 312(1)))  
S. 281 applied (1.1.1996) by 1981 c. 54, s. 46A (as inserted (1.1.1996) by 1995 c. 21 ss. 314(2), 316(2), Sch. 13 para. 55 (with s. 312(1)))

**282 Offences committed by British seamen.**

- (1) Any act in relation to property or person done in or at any place (ashore or afloat) outside the United Kingdom by any master or seaman who at the time is employed in a United Kingdom ship, which, if done in any part of the United Kingdom, would be an offence under the law of any part of the United Kingdom, shall—
- (a) be an offence under that law, and
  - (b) be treated for the purposes of jurisdiction and trial, as if it had been done within the jurisdiction of the Admiralty of England.
- (2) Subsection (1) above also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.
- (3) Subsections (1) and (2) above apply to omissions as they apply to acts.

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

- C164** S. 282 applied (1.1.1996) by 1980 c. 43, s. 3A (as inserted (1.1.1996) by 1995 C. 21, ss. 314(2), 316(2), Sch. 13 para. 55 (with s. 312(1)))  
S. 282 applied (1.1.1996) by 1981 c. 54, s. 46A (as inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 59(4)** (with s. 312(1)))

*Return of offenders*

**283 Return of offenders.**

- (1) The powers conferred on a British consular officer by subsection (2) below are exercisable in the event of any complaint being made to him—
- (a) that any offence against property or persons has been committed at any place (ashore or afloat) outside the United Kingdom by any master or seaman who at the time when the offence was committed, or within three months before that time, was employed in a United Kingdom ship; or
  - (b) that any offence on the high seas has been committed by any master or seaman belonging to any United Kingdom ship.
- (2) Those powers are—
- (a) to inquire into the case upon oath, and
  - (b) if the case so requires, to take any steps in his power for the purpose of placing the offender under the necessary restraint and sending him by United Kingdom ship as soon as practicable in safe custody to the United Kingdom for proceedings to be taken against him.

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- (3) The consular officer may, subject to subsections (4) and (5) below, order the master of any United Kingdom ship bound for the United Kingdom to receive and carry the offender and the witnesses to the United Kingdom; and the officer shall endorse upon the agreement of the ship such particulars with respect to them as the Secretary of State requires.
- (4) A consular officer shall not exercise the power conferred by subsection (3) above unless no more convenient means of transport is available or it is available only at disproportionate expense.
- (5) No master of a ship may be required under subsection (3) above to receive more than one offender for every 100 tons of his ship's registered tonnage, or more than one witness for every 50 tons of his ship's registered tonnage.
- (6) The master of any ship to whose charge an offender has been committed under subsection (3) above shall, on his ship's arrival in the United Kingdom, give the offender into the custody of some police officer or constable.
- (7) If any master of a ship, when required under subsection (3) above to receive and carry any offender or witness in his ship—
  - (a) fails to do so; or
  - (b) in the case of an offender, fails to deliver him as required by subsection (6) above;he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) The expense of imprisoning any such offender and of carrying him and witnesses to the United Kingdom otherwise than in the ship to which they respectively belong shall be paid out of money provided by Parliament.
- (9) References in this section to carrying a person in a ship include affording him subsistence during the voyage.

#### *Detention of ship and distress on ship*

### **284 Enforcing detention of ship.**

- (1) Where under this Act a ship is to be or may be detained any of the following officers may detain the ship—
    - (a) any commissioned naval or military officer,
    - [<sup>F289</sup>(b) any officer of a Minister of the Crown or Northern Ireland department who is authorised by the Secretary of State, either generally or in a particular case, to exercise powers under this section,]
    - (c) any officer of customs and excise, and
    - (d) any British consular officer.
- <sup>F290</sup>[(1A) A notice of detention may—
- (a) include a direction that the ship—
    - (i) must remain in a particular place, or
    - (ii) must be moved to a particular anchorage or berth, and

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- (b) if it includes such a direction, may specify circumstances relating to safety or the prevention of pollution in which the master may move his ship from that place, anchorage or berth.]
- [<sup>F291</sup>(2) If a ship as respects which notice of detention has been served on the master proceeds to sea, otherwise than in accordance with such a notice, before it is released by a competent authority, the master of the ship shall be guilty of an offence.
- <sup>F291</sup>(2A) If a ship as respects which notice of detention has been served on the master fails to comply with a direction given under subsection (1A)(a) above, the master of the ship shall be guilty of an offence.
- <sup>F291</sup>(2B) A person guilty of an offence under subsection (2) or (2A) above shall be liable[<sup>F292</sup>—  
[<sup>F292</sup>on summary conviction, or on conviction on indictment, to a fine].]
- (3) The owner of a ship, and any person who sends to sea a ship, as respects which an offence is committed under subsection (2) [<sup>F293</sup>or (2A)] above shall, if party or privy to the offence, also be guilty of an offence under that subsection and liable accordingly.
- (4) Where a ship proceeding to sea in contravention of subsection (2) above [<sup>F294</sup>or failing to comply with a direction given under subsection (1A)(a) above][<sup>F295</sup>carries away without his consent] any of the following who is on board the ship in the execution of his duty, namely—
- (a) any officer authorised by subsection (1) above to detain the ship, or
  - (b) any surveyor of ships,
- the owner and master of the ship shall each—
- (i) be liable to pay all expenses of and incidental to the officer or surveyor being so [<sup>F296</sup>carried away]; and
  - (ii) be guilty of an offence.
- (5) A person guilty of an offence under subsection (4) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) Where under this Act a ship is to be detained an officer of customs and excise shall, and where under this Act a ship may be detained an officer of customs and excise may, refuse to clear the ship outwards or grant a transire to the ship.
- (7) When any provision of this Act provides that a ship may be detained until any document is produced to the proper officer of customs and excise the officer able to grant a clearance or transire of the ship is (unless the context otherwise requires) that officer.
- (8) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea, and references to sending or taking to sea shall be construed accordingly.

#### Textual Amendments

**F289** S. 284(1)(b) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(2)**; S.I. 1997/1082, art. 2, **Sch.**

**F290** S. 284(1A) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(3)**; S.I. 1997/1082, art. 2, **Sch.**

**F291** S. 284(2)-(2B) substituted for s. 284(2) (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(4)**; S.I. 1997/1082, art. 2 **Sch.**



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- F292** Words in s. 284(2B) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 27(15)** (with reg. 5(1))
- F293** Words in s. 284(3) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(5)**; S.I. 1997/1082, art. 2, **Sch. 1**
- F294** Words in s. 284(4) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(6)(a)**; S.I. 1997/1082, art. 2, **Sch. 1**
- F295** Words in s. 284(4) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(6)(b)**; S.I. 1997/1082, art. 2, **Sch. 1**
- F296** Words in s. 284(4)(i) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(6)(c)**; S.I. 1997/1082, art. 2, **Sch. 1**

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

- C165** S. 284 applied (with modifications) (1.1.1997) by S.I. 1996/3010, **reg. 15(3)(b)**  
S. 284 applied (with modifications) (27.3.1997) by S.I. 1997/529, **reg. 8**  
S. 284 applied (with modifications) (20.6.1997) by S.I. 1997/1320, **reg. 16(1)**  
S. 284 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 284 applied (with modifications) (6.4.1998) by S.I. 1998/209, **reg. 9**  
S. 284 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
S. 284 applied (with modifications) (11.5.1998) by S.I. 1998/1012, **reg. 106**  
S. 284 applied (with modifications) (1.7.1998) by S.I. 1998/1419, **reg. 9**  
S. 284 applied (with modifications) (12.11.1998) by S.I. 1998/2514, **reg. 92**  
S. 284 applied (with modifications) (12.11.1998) by S.I. 1998/2515, **reg. 74**  
S. 284 applied (with modifications) (1.12.1998) by S.I. 1998/2647, **reg. 8**  
S. 284 applied (with modifications) (16.12.1998) by S.I. 1998/2771, **reg. 9**  
S. 284 applied (with modifications) (10.2.1999) by S.I. 1999/17, **reg. 9**  
S. 284 applied (with modifications) (1.7.1999) by S.I. 1999/1644, **art. 17**  
S. 284 applied (with modifications) (5.8.1999) by S.I. 1999/1957, **reg. 25**  
S. 284 applied (with modifications) (5.8.1999) by S.I. 1999/2998, **reg. 18(2)**  
S. 284 applied (with modifications) (1.1.2000) by S.I. 1999/3210, **reg. 27(1)**  
S. 284 applied (with modifications) (1.4.2001) by S.I. 2001/9, **reg. 9**  
S. 284 applied (with modifications) (15.2.2002) by S.I. 2001/3444, **reg. 12**  
S. 284 applied (with modifications) (1.11.2001) by S.I. 2001/3209, **reg. 9(7)**  
S. 284 applied (with modifications) (23.11.2002) by S.I. 2002/2201, **reg. 11**  
S. 284 applied (with modifications) (1.9.2002) by S.I. 2002/2055, **reg. 15**
- C166** S. 284 power to apply (with modifications) conferred (12.12.2006) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage) Order 2006 (S.I. 2006/2950), arts. 1, **5(f)**
- C167** S. 284 applied (with modifications) (1.1.2007) by The Merchant Shipping (Local Passenger Vessels) (Crew) Regulations 2006 (S.I. 2006/3224), regs. 1, **7(4)**
- C168** S. 284 applied (with modifications) (1.1.2007) by The Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters' Qualifications and Hours of Work) Regulations 2006 (S.I. 2006/3223), regs. 1(b), **26(4)**
- C169** S. 284 applied (E.W.) (27.3.2007 for W., 6.4.2007 for E.) by Animal Welfare Act 2006 (c. 45), **ss. 55(3), 68(3)** (with **ss. 1(2), 58(1), 59, 60**); S.I. 2007/1030, art. 2(1)(h); S.I. 2007/499, art. 2(2)(j)
- C170** S. 284 applied (with modifications) (with application in accordance with reg. 4 of the amending S.I.) by The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007 (S.I. 2007/3077), regs. 1, **19(1)**
- C171** S. 284 applied (with modifications) (with application in accordance with reg. 4 of the amending S.I.) by The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007 (S.I. 2007/3075), regs. 1, **20(1)**
- C172** S. 284 applied (with modifications) (1.3.2008) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 (S.I. 2007/3100), regs. 1, **23(1)**

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- C173** S. 284 applied (with modifications) (8.12.2008) by The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924), regs. 1, **28(5)** (with reg. 3)
- C174** S. 284 applied (with modifications) (1.2.2009) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 (S.I. 2008/3257), regs. 1(2), **38(5)** (with reg. 6(17))
- C175** S. 284 applied in part (with modifications) (1.7.2009) by S.I. 1996/2154, **reg. 35A(2)** (as inserted by The Merchant Shipping (Implementation of Ship-Source Pollution Directive) Regulations 2009 (S.I. 2009/1210), regs. 1, **4(11)**)
- C176** S. 284 applied (with modifications) (1.12.2009) by The Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796), regs. 1, **12(5)** (with reg. 3)
- C177** S. 284 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010 (S.I. 2010/323), regs. 1, **28** (with regs. 4, 5)
- C178** S. 284 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (S.I. 2010/330), regs. 1, **21** (with regs. 4, 5)
- C179** S. 284 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010 (S.I. 2010/332), regs. 1, **23** (with regs. 4, 5)
- C180** S. 284 applied (with modifications) (6.4.2010) by The Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010 (S.I. 2010/680), regs. 1(2), **22(2)** (with reg. 3)
- C181** S. 284 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010 (S.I. 2010/2984), regs. 1, **27(1)**
- C182** S. 284 applied (with modifications) (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010 (S.I. 2010/2987), regs. 1, **17(1)**
- C183** S. 284 applied (with modifications) (24.11.2011) by The Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601), regs. 1(2), **3(5)**
- C184** S. 284 applied (with modifications) (coming into force in accordance with reg. 1(2) of the amending S.I.) by The Merchant Shipping (Compulsory Insurance of Shipowners for Maritime Claims) Regulations 2012 (S.I. 2012/2267), regs. 1(2), **9(2)** (with reg. 3)
- C185** S. 284 applied (with modifications) (12.1.2013) by The Merchant Shipping (Carriage of Passengers by Sea) Regulations 2012 (S.I. 2012/3152), regs. 1(2), **9(2)**
- C186** S. 284 applied (with modifications) (17.3.2014) by S.I. 2002/2125, regs. 17A(3), **17B(4)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), regs. 1(2), **2(19)**)
- C187** S. 284 applied (with modifications) (18.7.2014) by The Merchant Shipping (International Safety Management (ISM) Code) Regulations 2014 (S.I. 2014/1512), regs. 1(1), **14(4)(5)** (with reg. 3)
- C188** S. 284 applied (with modifications) (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **58(3)**
- C189** S. 284 applied (with modifications) (13.10.2014) by S.I. 1997/2962, **reg. 27B(4)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014 (S.I. 2014/1616), regs. 1(2), **2(18)**)
- C190** S. 284(1)-(6)(8) modified (23.10.2000) by S.I. 2000/2687, **reg. 10**
- C191** S. 284(1)-(3)(8) applied (with modifications) (29.10.1999) by S.I. 1999/2205, **reg. 16**
- C192** S. 284(1)-(5)(8) applied (with modifications) (31.12.1998) by S.I. 1998/2857, **reg. 12**  
S. 284(1)-(5)(8) applied (with modifications) (31.3.1998) by S.I. 1997/2962, **reg. 29**  
S. 284(1)-(5)(8) applied (with modifications) (25.10.1999) by S.I. 1999/2205, **reg. 16**  
S. 284(1)-(5)(8) applied (with modifications) (7.9.2002) by S.I. 2002/2125, **reg. 17**
- C193** S. 284(1)-(6)(8) applied (with modifications) (1.4.1997) by S.I. 1997/647, **reg. 12**  
S. 284(1)-(6)(8) applied (with modifications) (3.8.1998) by S.I. 1998/1609, **reg. 10**
- C194** S. 284(1)-(6) modified (11.12.2003) by The Merchant Shipping (Fire Protection) Regulations 2003 (S.I. 2003/2950), regs. 1, **9** (with reg. 3)

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- C195** S. 284(1)-(6) modified by S.I. 1996/3010, **reg. 15(3)** (as substituted (20.4.2004) by The Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) (Amendment) Regulations 2004 (S.I. 2004/930), regs. 1(1), 7)
- C196** S. 284(1)-(6) applied by S.I. 1994/2464, **reg. 11** (as substituted (20.4.2004) by The Merchant Shipping (Gas Carriers) (Amendment) Regulations 2004 (S.I. 2004/929), regs. 1(1), 7)
- C197** S. 284(1)-(6) applied (with modifications) (16.8.2004) by The Fishing Vessels (Working Time: Seafishermen) Regulations 2004 (S.I. 2004/1713), regs. 1, **16(3)** (with reg. 3)
- C198** S. 284(1)-(6) modified (6.9.2005) by The Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2005 (S.I. 2005/2286), regs. 1, **11**
- C199** S. 284(1)-(5) applied (with modifications) (24.11.2006) by The Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 (S.I. 2006/2183), **reg. 40**
- C200** S. 284(1)-(5) applied (with modifications) (24.11.2006) by The Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 (S.I. 2006/2184), regs. 1(1), **23**
- C201** S. 284(8) modified (11.12.2003) by The Merchant Shipping (Fire Protection) Regulations 2003 (S.I. 2003/2950), regs. 1, **9** (with reg. 3)
- C202** S. 284(8) modified by S.I. 1996/3010, reg. 15(3) (as substituted (20.4.2004) by The Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) (Amendment) Regulations 2004 (S.I. 2004/930), regs. 1(1), 7)
- C203** S. 284(8) applied by S.I. 1994/2464, reg. 11 (as substituted (20.4.2004) by The Merchant Shipping (Gas Carriers) (Amendment) Regulations 2004 (S.I. 2004/929), regs. 1(1), 7)
- C204** S. 284(8) applied (with modifications) (16.8.2004) by The Fishing Vessels (Working Time: Seafishermen) Regulations 2004 (S.I. 2004/1713), regs. 1, **16(3)** (with reg. 3)
- C205** S. 284(8) modified (6.9.2005) by The Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2005 (S.I. 2005/2286), regs. 1, **11**
- C206** S. 284(8) applied (with modifications) (24.11.2006) by The Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 (S.I. 2006/2183), **reg. 40**
- C207** S. 284(8) applied (with modifications) (24.11.2006) by The Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 (S.I. 2006/2184), regs. 1(1), **23**

## **285 Sums ordered to be paid leviable by distress on the ship.**

- (1) Where any court has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then, if the person directed to pay is the master or owner of the ship and the money directed to be paid is not paid in accordance with the order, the court who made the order may—
  - (a) except in Scotland, direct the amount remaining unpaid to be levied by distress,
  - (b) in Scotland, grant warrant authorising the arrestment and sale, of the ship and its equipment.
- (2) The remedy made available by this section is in addition to any other powers for compelling the payment of money ordered to be paid.

### *Special evidential provisions*

## **286 Depositions of persons abroad admissible.**

- (1) If the evidence of any person is required in the course of any legal proceeding before a judge or magistrate in relation to the subject matter of the proceeding and it is proved that that person cannot be found in the United Kingdom, any deposition that he may have previously made at a place outside the United Kingdom in relation to the same

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subject matter shall, subject to subsection (2) below, be admissible in evidence in those proceedings.

- (2) For a deposition to be admissible under subsection (1) above in any proceedings, the deposition—
- (a) must have been taken on oath;
  - (b) must have been taken before a justice or magistrate in any colony or a British consular officer in any other place;
  - (c) must be authenticated by the signature of the justice, magistrate or officer taking it; and
  - (d) must, if the proceedings are criminal proceedings, have been taken in the presence of the accused;
- and, in a case falling within paragraph (d) above, the deposition shall be certified by the justice, magistrate or officer taking it to have been taken in the presence of the accused.
- (3) No proof need be given of the signature or official character of the person appearing to have signed any such deposition and, in any criminal proceedings, a certificate stating that the deposition was taken in the presence of the accused shall, unless the contrary is proved, be evidence (and in Scotland sufficient evidence) of that fact.
- (4) This section also applies to proceedings before any person authorised by law or consent of the parties to receive evidence.
- (5) Nothing in this section affects the admissibility in evidence of depositions under any other enactment or the practice of any court.

## **287 Admissibility in evidence and inspection of certain documents.**

- (1) The following documents shall be admissible in evidence and, when in the custody of the Registrar General of Shipping and Seamen, shall be open to public inspection—
- (a) documents purporting to be submissions to or decisions by superintendents or proper officers under section 33;
  - (b) the official log book of any ship kept under section 77 and, without prejudice to section 288(2), any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;
  - (c) crew agreements, lists of crews made under section 78 and notices given under Part III of additions to or changes in crew agreements and lists of crews;
  - (d) returns or reports under section 108;
  - (e) documents transmitted to the Registrar General of Shipping and Seamen under section 298.
- (2) A certificate issued under section 47 shall be admissible in evidence.

## **288 Admissibility of documents in evidence.**

- (1) Where a document is by this Act declared to be admissible in evidence the document shall, on its production from proper custody—
- (a) be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence; and
  - (b) subject to all just exceptions, be evidence (or in Scotland sufficient evidence) of the matters stated in the document.

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- (2) A copy of, or extract from, any document so made admissible in evidence shall, subject to subsection (3) below, also be admissible in evidence (and in Scotland sufficient evidence) of the matters stated in the document.
- (3) A copy of, or extract from, a document shall not be admissible by virtue of subsection (2) above unless—
  - (a) it is proved to be an examined copy or extract; or
  - (b) it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted;and that officer shall furnish the certified copy or extract to any person who applies for it at a reasonable time and pays such reasonable price as the Secretary of State determines.
- (4) A person shall, on payment of such reasonable price as the Secretary of State determines, be entitled to have a certified copy of any declaration or document a copy of which is made evidence by this Act.
- (5) If any officer having duties of certification under subsection (3) above in relation to any document intentionally certifies any document as being a true copy or extract knowing that the copy or extract is not a true copy or extract he shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (6) Subject to subsection (7) below, in Scotland, if any person forges the seal, stamp or signature of any document (or copy document) declared by this Act to be admissible in evidence or tenders in evidence any such document (or copy document) with, and knowing it to have, a false or counterfeit seal, stamp or signature he shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding seven years or to both.
- (7) Subsection (6) above does not apply in respect of actings which constitute an offence under section 300(8).
- (8) Without prejudice to section 6(1) of the <sup>M56</sup>Civil Evidence (Scotland) Act 1988 (production of copy documents) subsections (2) and (3) above shall not apply, for the purposes of civil proceedings in Scotland, as respects the admissibility of a copy document; but subsection (5) above shall apply to a person purporting to authenticate any such document and to authentication as it applies to an officer purporting to certify any such document and to certification.

**Marginal Citations**  
M56 1988 c. 32.

## 289 Inspection and admissibility in evidence of copies of certain documents.

- (1) Where under any enactment a document is open to public inspection when in the custody of the Registrar General of Shipping and Seamen—

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- (a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but
  - (b) the original shall nevertheless be made available for public inspection if the copy or other reproduction is illegible.
- (2) Where the Registrar General of Shipping and Seamen destroys any document which has been sent to him under or by virtue of any enactment, and keeps a copy or other reproduction of that document, then—
- (a) any enactment providing for that document to be admissible in evidence or open to public inspection, and
  - (b) in the case of a document falling within subsection (1) above, that subsection, shall apply to the copy or other reproduction as if it were the original.
- (3) For the purposes of this section, and of section 288(2) in its application to documents in the custody of the Registrar General of Shipping and Seamen, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

## **290 Proof, etc of exemptions.**

- (1) Where any exception, exemption, excuse or qualification applies in relation to an offence under this Act—
- (a) it may be proved by the defendant, but
  - (b) need not be specified or negatived in any information or complaint;
- and, if so specified or negatived, shall not require to be proved by the informant or complainant.
- (2) This section applies in relation to an offence whether or not the exception, exemption, excuse or qualification is contained in the section creating the offence.
- (3) This section does not apply to Scotland.

### *Service of documents*

## **291 Service of documents.**

- (1) Any document authorised or required to be served on any person may be served on that person—
- (a) by delivering it to him;
  - (b) by leaving it at his proper address; or
  - (c) by sending it by post to him at his proper address.
- (2) Any such document required to be served on the master of a ship may be served—
- (a) where there is a master, by leaving it for him on board the ship with the person appearing to be in command or charge of the ship;
  - (b) where there is no master, on—
    - (i) the managing owner of the ship; or
    - (ii) if there is no managing owner, on any agent of the owner; or
    - (iii) where no such agent is known or can be found, by leaving a copy of the document fixed to the mast of the ship.

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- (3) Any document authorised or required to be served on any person may—
- (a) in the case of a body corporate, be served on the secretary or clerk of that body;
  - (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business or, in Scotland, on the firm.
- (4) Any notice authorised or required by or under Part II to be served on the Secretary of State may be served by post.
- (5) Any notice authorised by section 261, 262, 263 or 264 to be given to an inspector may be given by delivering it to him or by leaving it at, or sending it by post to, his office.
- (6) Any document authorised or required by or under any enactment to be served on the registered owner of a United Kingdom ship shall be treated as duly served on him if served on such persons, in such circumstances and by such method, as may be specified in registration regulations.
- (7) For the purposes of this section and of section 7 of the <sup>M57</sup>Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on whom any document is to be served shall be his last known address, except that—
- (a) in the case of a body corporate or their secretary or clerk it shall be the address of the registered or principal office of that body;
  - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership;
- and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office in the United Kingdom.
- (8) If the person to be served with any notice has (whether in pursuance of registration regulations or otherwise) specified an address in the United Kingdom other than his proper address within the meaning of subsection (7) above as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.
- (9) For the purposes of the said section 7 a letter containing—
- (a) a notice to be served on any person in pursuance of subsection (6) above, or
  - (b) a notice authorised or required to be served under registration regulations on a representative person (within the meaning of those regulations),
- shall be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to him in the register; and a letter containing any other notice under registration regulations shall be deemed to be properly addressed if it is addressed to the last known address of the person to be served (whether of his residence or of a place where he carries on business).

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**Marginal Citations**

M57 1978 c. 30.

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## PART XIII

### SUPPLEMENTAL

#### *Administration*

#### **292 General functions of Secretary of State.**

- (1) The Secretary of State shall continue to have the general superintendence of all matters relating to merchant shipping and seamen and is authorised to carry into execution the provisions of this Act and of all Acts relating to merchant shipping and seaman for the time being in force, except where otherwise provided or so far as relating to revenue.
- (2) The Secretary of State may take any legal proceedings under this Act in the name of any of his officers.

#### **293 Functions of Secretary of State in relation to marine pollution.**

- (1) The Secretary of State shall continue to have the functions of taking, or co-ordinating, measures to prevent, reduce and minimise the effects of, marine pollution.
- (2) Without prejudice to the generality of subsection (1) above, the functions of the Secretary of State under that subsection include—
  - <sup>F297</sup>[(za) the preparation, review and implementation of a national plan setting out arrangements for responding to incidents which cause or may cause marine pollution with a view to preventing such pollution or reducing or minimising its effects;]
  - (a) the acquisition, maintenance, use and disposal of ships, aircraft, equipment and other property;
  - (b) the provision of services, including research, training and advice;
  - (c) the giving of assistance to any other State or international institution under any international agreement relating to the prevention, reduction or control of marine pollution; and
  - (d) any other functions exercisable on his behalf on 1st October 1994 by the Marine Pollution Control Unit.
- (3) Assistance under subsection (2)(c) above shall be given on such terms as will secure reimbursement of the cost of giving the assistance if and to the extent that reimbursement will be practicable in the circumstances.
- (4) The Secretary of State may make reasonable charges for the supply of goods or services.
- <sup>F298</sup>(4A) Where under subsection (1) above the Secretary of State agrees that another person shall take any measures to prevent, reduce or minimise the effects of marine pollution, he may agree to indemnify that other person in respect of liabilities incurred by that person in connection with the taking of the measures.]
- (5) In this section—
 

“marine pollution” means pollution caused by ships, offshore installations or submarine pipelines affecting or likely to affect the United Kingdom or United Kingdom waters or controlled waters;



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“offshore installation” means any installation which is maintained for underwater exploitation or exploration to which the <sup>M58</sup>Mineral Working (Offshore Installations) Act 1971 applies;

“pipeline” has the same meaning as in Part III of the [<sup>F299</sup>Petroleum Act 1998] and “submarine” means in, under or over United Kingdom waters or controlled waters;

“United Kingdom controlled waters” means any part of the sea within the limits of an area designated under section 1(7) of the <sup>M59</sup>Continental Shelf Act 1964;

but no restriction as to the seas to which functions under this section extend is implied as regards the functions mentioned in subsection (2)(c) above.

#### Textual Amendments

- F297** S. 293(2)(za) inserted (17.17.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 17**; S.I. 1997/1539, art. 2, **Sch.**
- F298** S. 293(4A) inserted (17.7.1997) by 1997 c. 28, s. 6; S.I. 1997/1539, art. 2, **Sch.**
- F299** Words in s. 293(5) substituted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 39** (with Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**

#### Marginal Citations

- M58** 1971 c. 61.  
**M59** 1964 c. 29.

### 294 General power to dispense.

- (1) The Secretary of State may, if he thinks fit, and upon such conditions (if any) as he thinks fit to impose, exempt any ship from any specified requirement of, or prescribed under, this Act other than Chapter II of Part VI, or dispense with the observance of any such requirement in the case of any ship, if he is satisfied, as respects that requirement, of the matters specified in subsection (2) below.
- (2) Those matters are—
  - (a) that the requirement has been substantially complied with in the case of that ship or that compliance with it is unnecessary in the circumstances; and
  - (b) that the action taken or provision made as respects the subject-matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.
- (3) The Secretary of State shall annually lay before both Houses of Parliament a special report stating—
  - (a) the cases in which he has exercised his powers under this section during the preceding year; and
  - (b) the grounds upon which he has acted in each case.

### 295 Registrar General of Shipping and Seamen.

- (1) There shall continue to be an officer known as the Registrar General of Shipping and Seamen.

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- (2) The Registrar General of Shipping and Seamen shall be appointed, and may be removed, by the Secretary of State.
- (3) The Registrar General of Shipping and Seamen shall exercise such functions as are conferred on him by this Act and keep such records and perform such other duties as the Secretary of State may direct.
- (4) The Secretary of State may appoint and remove persons to perform on behalf of the Registrar General of Shipping and Seamen such of his functions as the Secretary of State or the Registrar General of Shipping and Seamen may direct.
- (5) Subsection (4) above does not apply in relation to the functions of the Registrar General of Shipping and Seaman as registrar under Part II.

#### **296 Mercantile marine superintendents.**

- (1) There shall continue to be officers known as mercantile marine superintendents.
- (2) Mercantile marine superintendents shall be appointed, and may be removed, by the Secretary of State.
- (3) Mercantile marine superintendents shall exercise the functions conferred on superintendents by this Act.

#### **297 Wreck commissioners, etc.**

- (1) The Lord Chancellor may appoint such number of persons as he thinks fit to be wreck commissioners and may remove any wreck commissioners appointed by him.
  - (2) A wreck commissioner shall vacate his office on the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the <sup>M60</sup>Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).
  - (3) Before appointing a person to act as wreck commissioner in Northern Ireland the Lord Chancellor shall consult the Chief Justice of Northern Ireland.
- [<sup>F300</sup>(3A) The Lord Chancellor may remove a wreck commissioner from office only with the concurrence of—
- (a) the Lord Chief Justice of England and Wales, or
  - (b) if the commissioner was appointed to act in Northern Ireland, the Lord Chief Justice of Northern Ireland.]
- (4) There shall be paid to any wreck commissioner such remuneration, out of money provided by Parliament, as the Lord Chancellor may with the consent of the Treasury determine.
  - (5) There shall be paid to any assessor appointed under this Act such remuneration, out of money provided by Parliament, as the Lord Chancellor may with the consent of the Treasury determine.

#### **Textual Amendments**

**F300** S. 297(3A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 4 para. 239; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(v)

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#### Marginal Citations

M60 1993 c. 8.

### 298 Transmission of documents to Registrar General.

- (1) The following duties are imposed on all superintendents and all officers of customs and excise as respects all documents which are delivered or transmitted to or retained by them in pursuance of this Act.
- (2) They shall take charge of the documents and keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where the documents come into their hands, or for any other proper purpose.
- (3) They shall, if required, produce them for any of those purposes, and shall then transmit them to the Registrar General of Shipping and Seamen.
- [<sup>F301</sup>(4) The Registrar General of Shipping and Seamen shall retain documents transmitted to him under subsection (3) above for such period as the Secretary of State may direct.]

#### Textual Amendments

F301 S. 298(4) substituted (17.7.1997) by 1997 c. 28, s. 23; S.I. 1997/1539, art. 2 Sch.

### 299 Returns, etc to Secretary of State.

- (1) All superintendents shall make and send to the Secretary of State such returns or reports on any matter relating to British merchant shipping or seamen as he may require.
- (2) All consular officers abroad and all officers of customs and excise abroad shall make and send to the Secretary of State such returns or reports on any matter relating to British merchant shipping or seamen as he may require.
- (3) All superintendents shall, when required by the Secretary of State, produce to him or to his officers all official log-books and other documents which are delivered to them under this Act.
- (4) All surveyors of ships shall make such returns to the Secretary of State as he may require with respect to—
  - (a) the build, dimensions, draught, burden, speed and room for fuel of ships surveyed by them; and
  - (b) the nature and particulars of machinery and equipment of such ships.
- (5) The owner, master and engineer of any ship being surveyed shall, when required to do so, give to the surveyors all such information and assistance within his power as the surveyors require for the purpose of returns under subsection (4) above.
- (6) If the owner, master or engineer, on being required under subsection (5) above to give any information or assistance, fails, without reasonable excuse, to give the information or assistance he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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### **300 Forms.**

- (1) The Secretary of State may prepare and approve forms for any book, instrument or paper required under this Act, and may alter such forms as he thinks fit.
- (2) The Secretary of State shall cause every such form to be marked with the distinguishing mark of his Department and, before finally issuing any form or making any alteration in a form, shall cause public notice thereof to be given in such manner as he thinks requisite in order to avoid inconvenience.
- (3) The Secretary of State shall cause such forms to be supplied at offices of customs and excise and Department of Transport Marine Offices, free of charge or at such reasonable prices as the Secretary of State may fix, or he may licence any persons to print and sell the forms.
- (4) Every such book, instrument or paper shall be made in the form (if any) approved by the Secretary of State, or as near as circumstances permit; and unless so made shall not be admissible in evidence in any civil proceedings on the part of the owner or master of any ship.
- (5) Every such book, instrument or paper if made in a form purporting to be the proper form and to be marked in accordance with subsection (2) above shall be deemed to be in the form required by this Act, unless the contrary is proved.
- (6) The foregoing provisions do not apply where special provision is made by this Act.
- (7) If any person prints, sells or uses any document purporting to be a form approved by the Secretary of State knowing that the document is not the form approved for the time being or that the document has not been prepared or issued by the Secretary of State that person shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (8) In Scotland, if any person forges any distinguishing mark on any form issued under this Act or fraudulently alters any such form he shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
  - (b) on conviction on indictment, to a fine or to imprisonment or to both.

### **301 Advisory committees.**

- (1) The Secretary of State may, if he thinks fit, appoint committees for the purpose of advising him when considering the making or alteration of any regulations, rules or scales for the purpose of this Act other than Chapter II of Part VI.
- (2) A committee appointed under this section shall consist of persons representing the interests principally affected or having special knowledge of the subject matter.
- (3) The Secretary of State shall pay to the members of any committee under this section such travelling and other allowances as the Secretary of State determines with the consent of the Treasury.
- (4) Committees may be appointed under this section to advise the Secretary of State specially as regards any special regulations, rules or scales or generally as regards any class or classes of regulations, rules or scales which the Secretary of State may assign to them.

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### Financial Provisions

#### 302 Fees.

- (1) The Secretary of State may, with the consent of the Treasury, make regulations prescribing fees to be charged in respect of—
  - (a) the issue or recording in pursuance of this Act of any certificate, licence or other document; or
  - (b) the doing of any thing in pursuance of this Act.
- (2) In the case of fees for the measurement of a ship's tonnage the fees may be prescribed as maximum fees.
- (3) All fees received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

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

**C208** S. 302 applied in part (with modifications) (1.12.2009) by [The Merchant Shipping \(Anti-Fouling Systems\) Regulations 2009 \(S.I. 2009/2796\)](#), regs. 1, **20** (with reg. 3)

#### [<sup>F302</sup>302A Funding of maritime services.

Schedule 11A (funding of maritime services) shall have effect.]

#### Textual Amendments

**F302** s. 302A inserted (19.3.1997) by [1997 c. 28, ss. 13, 31\(4\)](#), [Sch. 2 para. 1](#)

#### <sup>F303</sup>303 Expenses of Commissioners of Customs and Excise.

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#### Textual Amendments

**F303** S. 303 repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 61](#), [Sch. 5](#); [S.I. 2005/1126](#), art. 2(2)(h)(i)

#### 304 Expenses charged on money provided by Parliament.

- (1) The following expenses and other amounts shall be payable out of money provided by Parliament—
  - (a) the expenses incurred by the Secretary of State under this Act;
  - (b) the salaries, pensions, gratuities and allowances of surveyors of ships, Departmental inspectors and superintendents;
  - (c) the sums required for the contribution from the United Kingdom towards maintaining, in accordance with the Safety Convention, a service in the North Atlantic for the study and observation of ice and for the ice patrol;

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- (d) the expenses of obtaining depositions, reports and returns respecting wrecks and casualties;
- (e) such sums as the Secretary of State may, in his discretion, think fit to pay in respect of claims on account of the proceeds of wreck;
- (f) the expenses incurred in respect of receivers of wrecks and the performance of their duties;
- (g) such expenses as the Secretary of State directs for—
  - (i) establishing and maintaining on the coasts of the United Kingdom proper lifeboats with the necessary crews and equipment;
  - (ii) affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea; or
  - (iii) rewarding the preservation of life in such cases;
- (h) any other amounts which are by virtue of any provision of this Act payable out of money provided by Parliament.

(2) In subsection (1)(c) above “the Safety Convention” means the International Convention for the Safety of Life at Sea signed in London on 1st November 1974.

### **305 Payments to be made into Consolidated Fund.**

- (1) The following sums shall be paid into the Consolidated Fund—
  - (a) all fees, charges and expenses payable in respect of the survey and measurement of ships;
  - (b) any fees received by receivers of wrecks;
  - (c) any sums received by the Secretary of State under this Act or which are, by any provision of it, required to be paid into the Consolidated Fund.
- (2) All fees mentioned in this section shall be paid at such time and in such manner as the Secretary of State directs.

#### *Subordinate Legislation*

### **306 Regulations, rules and orders, etc.**

[<sup>F304</sup>(1) Subject to subsection (1A) below, any power of the Secretary of State to make regulations, orders or rules under this Act shall be exercisable by statutory instrument.

<sup>F304</sup>(1A) Subsection (1) above does not apply to—

- (a) rules made under section 91; or
- (b) any instrument made under section 128(4)(f) other than an instrument containing regulations.]

[<sup>F305</sup>(2) Subject to subsection (2A) below—

- (a) any statutory instrument containing regulations under this Act (including such an instrument made by virtue of section 128(4)(f) or 182B(4)(e)), and
  - (b) any statutory instrument containing an order or rules made under this Act,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.

<sup>F305</sup>(2A) Subsection (2) above does not apply to—

- (a) regulations made under section 130A, 259(8) or 260(3) or Schedule 11A;

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- (b) commencement orders;
  - (c) any order made under section 216(2), 223(3), paragraph 8 of Part II of Schedule 7, or any provision of Schedule 14.]
- (3) Any statutory instrument containing an Order in Council under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament but this subsection does not apply to Orders under section 2(4), 128, 129, 152(2), 172(2), [F306 182B(1)] 183, 184, [F307 185(2A) or (2B)] 224, 308 or 315(2) or under F308 . . . paragraph 10 of Part II of Schedule 6 or paragraph 13 of Part II of Schedule 7.
- (4) Before making the following regulations, rules or orders, namely—
- (a) regulations under Part III or [F309 section 108 or 130A];
  - (b) rules under Chapter II of Part V;
  - (c) an order under section 311,
- the Secretary of State shall consult with organisations in the United Kingdom appearing to him representative of persons who will be affected by the regulations, rules or orders.
- (5) Any direction, notice, order or authorisation under this Act given or made by the Secretary of State shall be in writing.
- (6) Any power to give a direction includes power to vary or revoke the direction by a subsequent direction.

#### Textual Amendments

- F304** S. 306(1)(1A) substituted for s. 306(1) (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(2)**; S.I. 1997/1539, art. 2, **Sch.**
- F305** S. 306(2)(2A) substituted for s. 306(2) (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(3)**; S.I. 1997/1082, art. 2, **Sch.**
- F306** Words in s. 306(3) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(4)(a)**; S.I. 1997/1539, art. 2, **Sch.**
- F307** Words in s. 306(3) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(4)(b)**; S.I. 1997/1539, art. 2, **Sch.**
- F308** Words in s. 306(3) repealed (12.10.1998) by S.I. 1998/2241, art. 3(1)(c)
- F309** Words in s. 306(4)(a) inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(5)**; S.I. 1997/1082, art. 2, **Sch.**

#### *Application of Act to certain descriptions of ships, etc.*

### **307 Application of Act to non-United Kingdom ships.**

- (1) The Secretary of State may make regulations specifying any description of non-United Kingdom ships and directing that such of the provisions of this Act and of instruments under this Act as may be specified in the regulations—
- (a) shall extend to non-United Kingdom ships of that description and to masters and seamen employed in them, or
  - (b) shall so extend in such circumstances as may be so specified, with such modifications (if any) as may be so specified.
- (2) Regulations under this section may contain such transitional, supplementary and consequential provisions as appear to the Secretary of State to be expedient.

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- (3) In this section “non-United Kingdom ships” means ships which are not registered in the United Kingdom.

### 308 Application of Act to government ships.

- (1) Subject to any other provision of it, this Act shall not apply to ships belonging to Her Majesty.
- (2) Her Majesty may by Order in Council make regulations with respect to the manner in which Government ships may be registered as British ships under Part II; and this Act, subject to any exceptions and modifications which may be made by Order in Council, either generally or as respects any special class of Government ships, shall apply to government ships registered in accordance with the Order as if they were registered in accordance with Part II.
- (3) Any Order in Council under subsection (2) above shall be laid before Parliament after being made.
- (4) In this section “Government ships” means ships not forming part of Her Majesty’s Navy which belong to Her Majesty, or are held by any person on behalf of or for the benefit of the Crown (and for that reason cannot be registered under Part II).

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

- C209** S. 308 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, [Sch. 1](#)  
S. 308 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, [Sch. 1](#)

### 309 Application of Act to ships chartered by demise to the Crown.

- (1) This section applies to a ship if for the time being—
- (a) the ship is—
    - (i) registered in the United Kingdom, and
    - (ii) in the service of a government department (including a Northern Ireland department) (“the relevant department”) by reason of a charter by demise to the Crown; and
  - (b) there is in force under section 308(2) an Order in Council providing for the registration of Government ships in the service of the relevant department.
- (2) Where this section applies to any ship, the following statutory provisions, namely—
- (a) the provisions of the Order in Council referred to in subsection (1)(b) above (excluding those relating to registration under the Order), and
  - (b) the provisions of this Act (as they apply by virtue of section 308(2) and that Order in Council),
- shall (subject to subsections (3) and (4) below) have the same effect in relation to that ship as they have in relation to a Government ship in the service of the relevant department (whether referred to as such or as such a ship registered in pursuance of that Order in Council).
- (3) Subject to subsection (4) below, Part II shall have effect in relation to a ship to which this section applies in like manner as if it were not, for the purposes of this Act, a ship belonging to Her Majesty.



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- (4) Her Majesty may by Order in Council provide that any statutory provision falling within subsection (2) or (3) above and specified in the Order—
  - (a) shall not have effect in accordance with that subsection in relation to a ship to which this section applies, or
  - (b) shall so have effect in relation to such a ship, but subject to such modifications as are specified in the Order.
- (5) In the application of any provision of this Act (other than a provision of Part II) in relation to a ship to which this section applies, any reference to the owner of the ship shall be construed as a reference to the relevant department.
- (6) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.

### **310 Application of Act to hovercraft.**

The enactments and instruments with respect to which provision may be made by Order in Council under section 1(1)(h) of the <sup>M61</sup>Hovercraft Act 1968 shall include this Act (except Parts I and II) and any instrument made thereunder.

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#### **Marginal Citations**

**M61** 1968 c. 59

### **F310 311 Application of Act to certain structures, etc.**

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#### **Textual Amendments**

**F310** S. 311 repealed (10.9.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), s. 112(8), [Sch. 8](#)

### *Special provisions for Scots law*

### **312 Special provisions for Scots law.**

- (1) Nothing in this Act shall be held in any way to annul or restrict the common law of Scotland with regard to the prosecution or punishment of offences at the instance or on the authority or with the concurrence of the Lord Advocate, or on the authority of the High Court or to any punishment consequent on such prosecution or the rights of owners or creditors in regard to enforcing a judicial sale of any ship and equipment, or to give to the High Court in England and Wales any jurisdiction in respect of salvage in Scotland which it did not have or exercise before 25 August 1894.
- (2) Any enactment which confers on any court in Scotland Admiralty jurisdiction in respect of damage shall have effect as if references to damage included reference to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem or in personam.

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### *Final provisions*

## 313 Definitions.

(1) In this Act, unless the context otherwise requires—

“British connection” has the meaning given in section 9(9);

“British citizen”, “British Dependent Territories citizen”, “British Overseas citizen” and “Commonwealth citizen” have the same meaning as in the <sup>M62</sup>British Nationality Act 1981;

“British ship” has the meaning given in section 1(1);

“commissioned military officer” means a commissioned officer in Her Majesty’s land forces on full pay;

“commissioned naval officer” means a commissioned officer of Her Majesty’s Navy on full pay;

“conservancy authority” includes all persons entrusted with the function of conserving, maintaining or improving the navigation of a tidal water (as defined in section 255);

“consular officer”, in relation to a foreign country, means the officer recognised by Her Majesty as a consular officer of that foreign country;

“contravention” includes failure to comply (and “failure” includes refusal);

“Departmental inspector” and “Departmental officer” have the meanings given in section 256(9);

“fishing vessel” means a vessel for the time being used (or, in the context of an application for registration, intended to be used) for, or in connection with fishing for sea fish other than a vessel used (or intended to be used) for fishing otherwise than for profit; and for the purposes of this definition “sea fish” includes shellfish, salmon and migratory trout (as defined by section 44 of the <sup>M63</sup>Fisheries Act 1981);

“foreign”, in relation to a ship, means that it is neither a United Kingdom ship nor a small ship (as defined in section 1(2)) which is a British ship;

“Government ship” has the meaning given in section 308;

“harbour” includes estuaries, navigable rivers, piers, jetties and other works in or at which ships can obtain shelter or ship and unship goods or passengers;

“harbour authority” includes all persons entrusted with the function of constructing, improving, managing, regulating, maintaining or lighting a harbour;

[<sup>F311</sup>“harbour authority” means, in relation to a harbour—

- (a) the person who is the statutory harbour authority for the harbour, or
- (b) if there is no statutory harbour authority for the harbour, the person (if any) who is the proprietor of the harbour or who is entrusted with the function of managing, maintaining or improving the harbour;]

“master” includes every person (except a pilot) having command or charge of a ship and, in relation to a fishing vessel, means the skipper;

[<sup>F312</sup>“Minister of the Crown” has the same meaning as in the Ministers of the <sup>M64</sup>Crown Act 1975;]

“port” includes place;

“proper officer” means a consular officer appointed by Her Majesty’s Government in the United Kingdom and, in relation to a port in a country

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outside the United Kingdom which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;

[<sup>F313</sup>“qualifying foreign ship” has the meaning given in section 313A;]

“the register” and “registered” have the meaning given in section 23(1);

“the registrar”, in relation to the registration of ships, has the meaning given in section 8;

“registration regulations” means regulations under section 10;

“relevant British possession” means—

- (a) the Isle of Man;
- (b) any of the Channel Islands; and
- (c) any colony;

“safety regulations” means regulations under section 85;

“seaman” includes every person (except masters and pilots) employed or engaged in any capacity on board any ship;

“ship” includes every description of vessel used in navigation;

[<sup>F314</sup>“statutory harbour authority” means—

- (a) in relation to Great Britain, a harbour authority within the meaning of the <sup>M65</sup>Harbours Act 1964; and
- (b) in relation to Northern Ireland, a harbour authority within the meaning of the <sup>M66</sup>Harbours Act (Northern Ireland) 1970.]

“superintendent” means a mercantile marine superintendent appointed under section 296;

“surveyor of ships” has the meaning given in section 256(9);

“the tonnage regulations” means regulations under section 19;

“United Kingdom ship” (and in Part V “United Kingdom fishing vessel”) has the meaning given in section 1(3) except in the contexts there mentioned; and

“wages” includes emoluments.

(2) In this Act—

- (a) “United Kingdom waters” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom; and
- (b) “national waters”, in relation to the United Kingdom, means United Kingdom waters landward of the baselines for measuring the breadth of its territorial sea.

[<sup>F315</sup>(2A) In this Act “right of innocent passage”, “right of transit passage” and “straits used for international navigation” shall be construed in accordance with the United Nations Convention on the Law of the Sea 1982.]

(3) A vessel for the time being used (or intended to be used) wholly for the purpose of conveying persons wishing to fish for pleasure is not a fishing vessel.

#### Textual Amendments

**F311** Definition of “harbour authority” in s. 313(1) inserted (17.17.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(2)(a)**; S.I. 1997/1539, art. 2, **Sch.**

**F312** Definition of “Minister of the Crown” in s. 313(1) inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(2)(b)**; S.I. 1997/1082, art. 2, **Sch.**

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- F313** Definition of “qualifying foreign ship” in s. 313(1) inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(2)(c)**; S.I. 1997/1082, art. 2, **Sch.**
- F314** Definition of “statutory harbour authority” in s. 313(1) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(2)(d)**; S.I. 1997/1539, art. 2, **Sch.**
- F315** S. 313(2A) inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(3)**; S.I. 1997/1082, art. 2, **Sch.**

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

- C210** S. 313 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 313 extended (with modifications) to Guernsey (11.3.1998) by 1998/260, arts. 2, 3, **Sch. 1**
- C211** S. 313 applied (30.3.2004) by **Railways and Transport Safety Act 2003 (c. 20), s. 89(2)**; S.I. 2004/827, art. 3(1)

#### Marginal Citations

- M62** 1981 c. 61.  
**M63** 1981 c. 29.  
**M64** 1975 c. 26.  
**M65** 1964 c. 40.  
**M66** 1970 c. 1 (N.I.).

### [<sup>F316</sup>313A Meaning of “qualifying foreign ship”.

- (1) In this Act “qualifying foreign ship” means any ship other than—
- (a) a British ship, or
  - (b) a ship which is not registered under Part II and which (although not by virtue of section 1(1)(d) a British ship)—
    - (i) is wholly owned by persons falling within subsection (2) below, and
    - (ii) is not registered under the law of a country outside the United Kingdom.
- (2) The following persons fall within this subsection, namely—
- (a) British citizens,
  - (b) British Dependent Territories citizens,
  - (c) British Overseas citizens,
  - (d) persons who under the <sup>M67</sup>British Nationality Act 1981 are British subjects,
  - (e) British Nationals (Overseas) (within the meaning of that Act),
  - (f) British protected persons (within the meaning of that Act), or
  - (g) bodies corporate incorporated in the United Kingdom or in any relevant British possession and having their principal place of business in the United Kingdom or in any relevant British possession.]

#### Textual Amendments

- F316** S. 313A inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 20**; S.I. 1997/1082, art. 2, **Sch.**

#### Marginal Citations

- M67** 1981 c. 61.

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### **314 Repeals, consequential amendments and transitional provisions.**

- (1) The enactments specified in Schedule 12 (which include enactments which are spent) are, subject to subsection (3) below and to any Note at the end of the Schedule, repealed to the extent specified in the third column of that Schedule.
- (2) The enactments specified in Schedule 13 shall have effect subject to the amendments specified in that Schedule.
- (3) The saving and transitional provisions in Schedule 14 shall have effect.
- (4) The Secretary of State may, by order, make such amendments of any local Act or instrument so far as it provides for the registration of ships in local registers as appear to him to be appropriate in view of the provisions made for the register mentioned in section 8.

#### **Commencement Information**

**I10** S. 314 partly in force; s. 314(1) not in force at Royal Assent (so far as it relates to the repeal in the Aliens Restriction (Amendment) Act 1919 or in the Local Government etc. (Scotland) Act 1994) see Sch. 14 para. 5; s. 314(2)-(4) in force at 1.1.1996, see s. 316(2)

### **315 Extent and application.**

- (1) Except for sections 18 and 193(5), this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Her Majesty may by Order in Council direct that any provision of this Act and instruments made under this Act shall, with such exceptions, adaptations and modifications (if any) as may be specified in the Order, extend to any relevant British possession.
- (3) Her Majesty may, in relation to any relevant British possession, by Order in Council direct that, with such exceptions, adaptations and modifications (if any) as may be specified in the Order, any of the provisions of this Act shall have effect as if references in them to the United Kingdom included a reference to that possession.
- (4) An Order in Council under subsection (2) above may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.
- (5) Without prejudice to the generality of subsection (4) above, an Order in Council under this section may, in its application to any relevant British possession, provide for such authority in that possession as is specified in the Order to furnish the Secretary of State or the registrar with such information with respect to the registration of ships in that possession under its law as is specified in the Order or as the Secretary of State may from time to time require, and for any such information to be so furnished at such time or times and in such manner as is or are so specified or (as the case may be) as the Secretary of State may so require.

### **316 Short title and commencement.**

- (1) This Act may be cited as the Merchant Shipping Act 1995.
- (2) This Act shall come into force on 1st January 1996.

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

**C212** S. 317 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, **Sch. 1**

S. 316 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, **Sch. 1**

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## SCHEDULES

### SCHEDULE 1

Section 16.

#### PRIVATE LAW PROVISIONS FOR REGISTERED SHIPS

##### *General*

- 1 (1) Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship or of a share in a ship shall have power absolutely to dispose of it provided the disposal is made in accordance with this Schedule and registration regulations.
- (2) Sub-paragraph (1) above does not imply that interests arising under contract or other equitable interests cannot subsist in relation to a ship or a share in a ship; and such interests may be enforced by or against owners and mortgagees of ships in respect of their interest in the ship or share in the same manner as in respect of any other personal property.
- (3) The registered owner of a ship or of a share in a ship shall have power to give effectual receipts for any money paid or advanced by way of consideration on any disposal of the ship or share.

##### *Transfers etc of registered ships*

- 2 (1) Any transfer of a registered ship, or a share in such a ship, shall be effected by a bill of sale satisfying the prescribed requirements, unless the transfer will result in the ship ceasing to have a British connection.
  - (2) Where any such ship or share has been transferred in accordance with sub-paragraph (1) above, the transferee shall not be registered as owner of the ship or share unless—
    - (a) he has made the prescribed application to the registrar; and
    - (b) the registrar is satisfied that the ship retains a British connection and that he would not refuse to register the ship.
  - (3) If an application under sub-paragraph (2) above is granted by the registrar, the registrar shall register the bill of sale in the prescribed manner.
  - (4) Bills of sale shall be registered in the order in which they are produced to the registrar for the purposes of registration.
- 3 (1) Where a registered ship, or a share in a registered ship, is transmitted to any person by any lawful means other than a transfer under paragraph 2 above and the ship continues to have a British connection, that person shall not be registered as owner of the ship or share unless—
    - (a) he has made the prescribed application to the registrar; and
    - (b) the registrar is satisfied that the ship retains a British connection and that he would not refuse to register the ship.

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- (2) If an application under sub-paragraph (1) is granted by the registrar, the registrar shall cause the applicant's name to be registered as owner of the ship or share.
- 4 (1) Where the property in a registered ship or share in a registered ship is transmitted to any person by any lawful means other than a transfer under paragraph 2 above, but as a result the ship no longer has a British connection, the High Court or in Scotland the Court of Session may, on application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the court direct.
- (2) The court may require any evidence in support of the application they think requisite, and may make the order on any terms and conditions they think just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.
- (3) Every such application must be made within the period of 28 days beginning with the date of the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding one year) as the court may allow.
- (4) If—
- (a) such an application is not made within the time allowed by or under sub-paragraph (3) above; or
  - (b) the court refuse an order for sale,
- the ship or share transmitted shall be liable to forfeiture.
- 5 (1) Where any court (whether under paragraph 4 above or otherwise) order the sale of any registered ship or share in a registered ship, the order of the court shall contain a declaration vesting in some named person the right to transfer the ship or share.
- (2) The person so named shall be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner of the ship or share.
- (3) The registrar shall deal with any application relating to the transfer of the ship or share made by the person so named as if that person were the registered owner.
- 6 (1) The High Court or in Scotland the Court of Session may, if they think fit (without prejudice to the exercise of any other power), on the application of any interested person, make an order prohibiting for a specified time any dealing with a registered ship or share in a registered ship.
- (2) The court may make the order on any terms or conditions they think just, or may refuse to make the order, or may discharge the order when made (with or without costs or, in Scotland, expenses) and generally may act in the case as the justice of the case requires.
- (3) The order, when a copy is served on the registrar, shall be binding on him whether or not he was made a party to the proceedings.

#### *Mortgages of registered ships*

- 7 (1) A registered ship, or share in a registered ship, may be made a security for the repayment of a loan or the discharge of any other obligation.
- (2) The instrument creating any such security (referred to in the following provisions of this Schedule as a “mortgage”) shall be in the form prescribed by or approved under registration regulations.



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- (3) Where a mortgage executed in accordance with sub-paragraph (2) above is produced to the registrar, he shall register the mortgage in the prescribed manner.
- (4) Mortgages shall be registered in the order in which they are produced to the registrar for the purposes of registration.

#### *Priority of registered mortgages*

- 8 (1) Where two or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves shall, subject to sub-paragraph (2) below, be determined by the order in which the mortgages were registered (and not by reference to any other matter).
- (2) Registration regulations may provide for the giving to the registrar by intending mortgagees of “priority notices” in a form prescribed by or approved under the regulations which, when recorded in the register, determine the priority of the interest to which the notice relates.

#### *Registered mortgagee’s power of sale*

- 9 (1) Subject to sub-paragraph (2) below, every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money.
- (2) Where two or more mortgagees are registered in respect of the same ship or share, a subsequent mortgagee shall not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

#### *Protection of registered mortgagees*

- 10 Where a ship or share is subject to a registered mortgage then—
  - (a) except so far as may be necessary for making the ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be treated as owner of the ship or share; and
  - (b) the mortgagor shall be treated as not having ceased to be owner of the ship or share.

#### *Transfer of registered mortgage*

- 11 (1) A registered mortgage may be transferred by an instrument made in the form prescribed by or approved under registration regulations.
- (2) Where any such instrument is produced to the registrar, the registrar shall register the transferee in the prescribed manner.

#### *Transmission of registered mortgage by operation of law*

- 12 Where the interest of a mortgagee in a registered mortgage is transmitted to any person by any lawful means other than by a transfer under paragraph 11 above, the registrar shall, on production of the prescribed evidence, cause the name of that person to be entered in the register as mortgagee of the ship or share in question.

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### *Discharge of registered mortgage*

- 13 Where a registered mortgage has been discharged, the registrar shall, on production of the mortgage deed and such evidence of the discharge of the mortgage as may be prescribed, cause an entry to be made in the register to the effect that the mortgage has been discharged.

### *Definitions*

- 14 In this Schedule—  
“mortgage” shall be construed in accordance with paragraph 7(2) above;  
“prescribed” means prescribed in registration regulations; and  
“registered mortgage” means a mortgage registered under paragraph 7(3) above.

## SCHEDULE 2

Section 88.

### REGULATIONS RELATING TO SUBMERSIBLE AND SUPPORTING APPARATUS

- 1 (1) In this Schedule “regulations” means regulations made under section 88 and “prescribed” means prescribed by regulations.  
(2) Nothing in this Schedule shall be taken to prejudice the generality of section 88.

### *Registration of submersible apparatus*

- 2 Regulations made by virtue of section 88(2)(e) of this Act may make provision—  
(a) for all matters relevant to the maintenance of a register of submersible apparatus,  
(b) without prejudice to sub-paragraph (a) above, for the period for which any registration or exemption is to remain effective without renewal, the alteration or cancellation in any prescribed circumstances of registration or exemption or of any conditions attached thereto, the person by whom and manner in which applications in connection with any registration or exemption are to be made, and information and evidence to be furnished in connection with any such application,  
(c) for the marking or other means of identification of any submersible apparatus,  
(d) for the issue of certificates of registration or exemption, and the custody, surrender, production or display of the certificates or copies of them,  
(e) for matters arising out of the termination of any registration or exemption, or any conditions attached thereto.

### *Offences*

- 3 (1) Subject to sub-paragraph (2) below, regulations—  
(a) may provide for the creation of offences and for their punishment on summary conviction or on conviction on indictment, and  
(b) may afford, in respect of any description of offence created by the regulations, such defence (if any) as may be prescribed.

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- (2) The punishment for an offence created by regulations shall be—
- (a) on summary conviction, a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, imprisonment for a term not exceeding two years, or a fine, or both,
- but without prejudice to any further restriction contained in the regulations on the punishments which can be awarded and without prejudice to the exclusion by the regulations of proceedings on indictment.

#### *Exemptions from regulations*

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

#### *General*

- 5 Regulations—
- (a) may provide for their operation anywhere outside the United Kingdom and for their application to persons, whether or not Commonwealth citizens, and to companies, whether or not incorporated under the law of any part of the United Kingdom;
  - (b) may provide that in any proceedings for an offence under the regulations (other than proceedings to which sub-paragraph (c) below applies) an averment in any process of the fact that anything was done or situated within United Kingdom waters shall, until the contrary is proved, be sufficient evidence of that fact as stated in the averment;
  - (c) may provide that in any proceedings in Scotland for an offence under the regulations a statement in any complaint or indictment of any such fact as is mentioned in sub-paragraph (b) above shall, until the contrary is proved, be sufficient evidence of the fact as so stated;
  - (d) may provide that proceedings for an offence under the regulations may be taken, and the offence be treated for all incidental purposes as having been committed, in any place in the United Kingdom;
  - (e) may provide for any provisions of Part XI relating to inquiries and investigations into marine accidents to apply (with such modifications as may be specified) in relation to accidents involving any submersible apparatus which is not a ship as they apply to ships;
  - (f) may provide that specified provisions of any enactment (other than section 88 and this Schedule) shall, in such circumstances as may be

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- prescribed, not have effect in relation to such class or description of, or to such particular, submersible or supporting apparatus as may be prescribed;
- (g) may make different provision for different classes or descriptions of submersible or supporting apparatus and for different circumstances;
  - (h) may contain such supplemental and incidental provisions as appear to the Secretary of State to be expedient.

### <sup>F317</sup>SCHEDULE 3

#### Textual Amendments

**F317** Sch. 3 (para 1-31) repealed (12.10.1998) by 1998/2441, art. 3(1)(d)

### [<sup>F318</sup>SCHEDULE 3A

#### SAFETY DIRECTIONS

#### Textual Amendments

**F318** Sch. 3A inserted (10.9.2003) by [Marine Safety Act 2003 \(c. 16\)](#), s. 4, [Sch. 1](#)

#### *Direction following accident: person in control of ship*

- 1 (1) The Secretary of State may give a direction under this paragraph in respect of a ship if in his opinion—
- (a) an accident has occurred to or in the ship,
  - (b) the accident has created a risk to safety or a risk of pollution by a hazardous substance, and
  - (c) the direction is necessary to remove or reduce the risk.
- (2) The direction may be given to—
- (a) the owner of the ship,
  - (b) a person in possession of the ship,
  - (c) the master of the ship,
  - (d) a pilot of the ship,
  - (da) [<sup>F319</sup>the owner of a hazardous substance in the ship,]
  - (e) a salvor in possession of the ship,
  - (f) a person who is the servant or agent of a salvor in possession of the ship and who is in charge of the salvage operation, or
  - (g) where the ship is in, or has been directed to move into, waters which are regulated or managed by a harbour authority, the harbour authority or the harbour master.

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- (3) The direction may require the person to whom it is given to take or refrain from taking any specified action in relation to—
  - (a) the ship;
  - (b) anything which is or was in the ship;
  - (c) anything which forms or formed part of the ship;
  - (d) anything which is or was being towed by the ship;
  - (e) a person on the ship.
- (4) In particular, the direction may require a person to ensure—
  - (a) that a ship or other thing is moved or not moved;
  - (b) that a ship or other thing is moved or not moved to or from a specified place or area or over a specified route;
  - (c) that cargo is or is not unloaded or discharged;
  - (d) that a substance is or is not unloaded or discharged;
  - (e) that specified salvage measures are taken or not taken;
  - (f) that a person is put ashore or on board a ship.

#### Textual Amendments

**F319** Sch. 3A para. 1(2)(da) inserted (20.9.2004) by [The Merchant Shipping \(Vessel Traffic Monitoring and Reporting Requirements\) Regulations 2004 \(S.I. 2004/2110\)](#), **reg. 22(1)**

#### *Direction following accident: person in control of land*

- 2 (1) The Secretary of State may give a direction under this paragraph in respect of a ship if in his opinion—
  - (a) an accident has occurred to or in the ship,
  - (b) the accident has created a risk to safety or a risk of pollution by a hazardous substance, and
  - (c) the direction is necessary to remove or reduce the risk.
- (2) The direction may be given to a person in charge of coastal land or premises.
- (3) For the purposes of this paragraph—
  - (a) a person is in charge of land or premises if he is wholly or partly able to control the use made of the land or premises, and
  - (b) “coastal” means adjacent to or accessible from United Kingdom waters over which the public are permitted to navigate.
- (4) The direction may require the person to whom it is given to grant access or facilities to or in relation to the ship or any person or thing which is or was on the ship.
- (5) In particular, a direction may require a person—
  - (a) to permit persons to land;
  - (b) to make facilities available for the undertaking of repairs or other works;
  - (c) to make facilities available for the landing, storage and disposal of cargo or of other things.
- (6) A direction under this paragraph—
  - (a) must be given in writing, or

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- (b) where it is not reasonably practicable to give it in writing, must be confirmed in writing as soon as is reasonably practicable.

#### *Other direction*

- 3 (1) The Secretary of State may give a direction in respect of a ship under this paragraph if in his opinion it is necessary for the purpose of—
  - (a) securing the safety of the ship or of other ships;
  - (b) securing the safety of persons or property;
  - (c) preventing or reducing pollution.
- (2) The direction may be given to—
  - (a) the owner of the ship;
  - (b) a person in possession of the ship;
  - (c) the master of the ship.
- (3) The direction may require the person to whom it is given to ensure that—
  - (a) the ship is moved or not moved from a specified place or area in United Kingdom waters;
  - (b) the ship is moved or not moved to a specified place or area in United Kingdom waters;
  - (c) the ship is moved or not moved over a specified route in United Kingdom waters;
  - (d) the ship is removed from United Kingdom waters.

#### *Action in lieu of direction*

- 4 (1) This paragraph applies where the Secretary of State thinks—
  - (a) that circumstances exist which would entitle him to give a direction under this Schedule, but
  - (b) that the giving of a direction would not be likely to achieve a sufficient result.
- (2) This paragraph also applies where—
  - (a) the Secretary of State has given a direction under this Schedule, but
  - (b) in his opinion the direction has not achieved a sufficient result.
- (3) The Secretary of State may take such action as appears to him necessary or expedient for the purpose for which the direction could have been given or was given.
- (4) In particular, the Secretary of State may—
  - (a) authorise a person to enter land or make use of facilities;
  - (b) do or authorise a person to do anything which the Secretary of State could require a person to do by a direction;
  - (c) authorise a person to assume control of a ship;
  - (d) make arrangements or authorise the making of arrangements for the sinking or destruction of a ship.

#### *Enforcement*

- 5 A person to whom a direction is given under this Schedule—
  - (a) must comply with the direction, and

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- (b) must try to comply with the direction in a manner which avoids risk to human life.

#### *Enforcement*

- 6 (1) A person commits an offence if he contravenes paragraph 5(a).
- (2) It is a defence for a person charged with an offence under sub-paragraph (1) to prove—
- (a) that he tried as hard as he could to comply with the relevant direction, or
  - (b) that he reasonably believed that compliance with the direction would involve a serious risk to human life.

#### *Enforcement*

- 7 A person commits an offence if he intentionally obstructs a person who is—
- (a) acting on behalf of the Secretary of State in connection with the giving of a direction under this Schedule,
  - (b) complying with a direction under this Schedule, or
  - (c) acting by virtue of paragraph 4.

#### *Enforcement*

- 8 A person guilty of an offence under paragraph 6 or 7 shall be liable<sup>F320</sup>—  
[<sup>F320</sup>on summary conviction, or on conviction on indictment, to a fine].

#### **Textual Amendments**

**F320** Words in Sch. 3A para. 8 substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), Sch. 4 para. 27(16) (with reg. 5(1))

#### *Enforcement*

- 9 (1) Proceedings for an offence under paragraph 6 or 7 may be brought in England and Wales only—
- (a) by or with the consent of the Attorney General, or
  - (b) by or with the authority of the Secretary of State.
- (2) Proceedings for an offence under paragraph 6 or 7 may be brought in Northern Ireland only—
- (a) by or with the consent of the Attorney General for Northern Ireland, or
  - (b) by or with the authority of the Secretary of State.

#### *Variation and revocation*

- 10 (1) A direction under this Schedule may be varied or revoked by a further direction.
- (2) If the Secretary of State thinks that a direction under this Schedule is wholly or partly no longer necessary for the purpose for which it was given, he shall vary or revoke the direction as soon as is reasonably practicable.

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- (3) Where the Secretary of State has given a direction to a person under this Schedule he shall consider any representations about varying or revoking the direction which are made to him by that person.

*Procedure*

- [<sup>F321</sup>11 Where the Secretary of State—
- (a) proposes to give a direction under this Schedule to a company or other body, and
  - (b) thinks that section 1139 of the Companies Act 2006 (service of documents on company) does not apply,
- the direction may be served in such manner as the Secretary of State thinks most suitable.]

**Textual Amendments**

**F321** Sch. 3A para. 11 substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 152(5)** (with art. 10)

*Procedure*

- 12 A person acting on behalf of the Secretary of State may—
- (a) board a ship for the purpose of serving a direction under this Schedule;
  - (b) enter land or premises for that purpose.

*Procedure*

- 13 Before giving a direction under paragraph 2 in respect of land or premises the Secretary of State shall, unless he thinks that it is not reasonably practicable—
- (a) give the person to whom he proposes to give the direction an opportunity to make representations, and
  - (b) consider any representations made.

*Unreasonable loss and damage*

- 14 (1) This paragraph applies where action taken in accordance with a direction under this Schedule or by virtue of paragraph 4 (“remedial action”)—
- (a) was not reasonably necessary for the purpose for which the direction was given, or
  - (b) caused loss or damage which could not be justified by reference to that purpose.
- (2) The Secretary of State shall pay compensation to any person who—
- (a) suffered loss or damage as a result of the remedial action (whether it was taken by him or someone else), and
  - (b) applies to the Secretary of State for compensation.
- (3) In considering what is reasonably necessary or justifiable for the purpose of sub-paragraph (1) account shall be taken of—



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- (a) the extent of the risk to safety or threat of pollution which the direction was intended to address,
- (b) the likelihood of the remedial action being effective, and
- (c) the extent of the loss or damage caused by the remedial action.

#### *Expenses*

- 15 (1) This paragraph applies where—
- (a) a direction is given to a person in respect of a ship under paragraph 2, or
  - (b) the Secretary of State relies on paragraph 4 to take or authorise action in respect of a ship in lieu of a direction under paragraph 2.
- (2) The person to whom a direction is given shall be entitled to recover the costs of his compliance with the direction from the owner of the ship.
- (3) A person in charge of coastal land or premises shall be entitled to recover from the owner of the ship costs incurred by him as a result of action taken by virtue of paragraph 4 in relation to that land or premises.
- (4) The Secretary of State may make payments to a person on account of sums recoverable by that person under sub-paragraph (2) or (3).
- (5) The Secretary of State shall be entitled to recover from the owner of the ship—
- (a) costs incurred in connection with the giving of a direction;
  - (b) costs incurred in connection with action taken under paragraph 4;
  - (c) costs incurred under sub-paragraph (4).
- (6) A right under sub-paragraph (2), (3) or (5) permits the recovery of costs only in so far as they are not recoverable—
- (a) under another enactment,
  - (b) by virtue of an agreement, or
  - (c) under the law relating to salvage.

#### *Jurisdiction*

- 16 The Admiralty jurisdiction of the High Court and of the Court of Session shall include jurisdiction to hear and determine any claim arising under paragraph 14 or 15.

#### *Ships to which Schedule applies*

- 17 A direction under paragraph 1 or 2, in so far as it relates to a risk of pollution, may have effect in respect of a ship only if it—
- (a) is a United Kingdom ship, or
  - (b) is in United Kingdom waters or an area of the sea specified under section 129(2)(b).

#### *Ships to which Schedule applies*

- 18 (1) Her Majesty may by Order in Council provide that a direction under paragraph 1 or 2, in so far as it relates to a risk of pollution, may have effect in respect of a ship which—

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- (a) is not a United Kingdom ship, and
- (b) is not in United Kingdom waters or an area of the sea specified under section 129(2)(b).

(2) An Order in Council under this paragraph—

- (a) may be expressed to apply generally or only in specified circumstances;
- (b) may make different provision for different circumstances;
- (c) may provide for this Schedule to have effect in cases to which the Order in Council applies with specified modifications;
- (d) may contain transitional or consequential provision (including provision amending an enactment).

*Ships to which Schedule applies*

- 19 A direction under paragraph 1 or 2, in so far as it relates to a risk to safety, may have effect in respect of a ship only if it is in United Kingdom waters and—
- (a) it is not a qualifying foreign ship, or
  - (b) it is a qualifying foreign ship which in the Secretary of State’s opinion is exercising neither the right of innocent passage nor the right of transit passage through straits used for international navigation.

*Ships to which Schedule applies*

- 20 (1) A direction under paragraph 3 may have effect in respect of a ship only if it is in United Kingdom waters and—
- (a) it is not a qualifying foreign ship, or
  - (b) it is a qualifying foreign ship which in the Secretary of State’s opinion is exercising neither the right of innocent passage nor the right of transit passage through straits used for international navigation.
- (2) A direction may not be given under paragraph 3(3)(d) in respect of a United Kingdom ship.

*Ships to which Schedule applies*

- 21 A direction may not be given under paragraph 1(2)(a) to (d) or 3 in respect of—
- (a) a ship of Her Majesty’s Navy, or
  - (b) a Government ship.

*Interpretation*

- 22 (1) In this Schedule—
- “accident” means a collision of ships, a stranding, another incident of navigation or another event (whether on board a ship or not) which results in material damage to a ship or its cargo or in an imminent threat of material damage to a ship or its cargo,
  - “action” includes omission,
  - “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament,
  - “harbour authority” has the meaning given by section 151(1),

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“harbour master” includes a dock master or pier master, and any person specially appointed by a harbour authority for the purpose of enforcing the provisions of this Schedule in relation to the harbour,

“hazardous substance” has the meaning given by sub-paragraph (2),

“owner”, in relation to the ship to or in which an accident has occurred, includes its owner at the time of the accident,

“pilot” means a person who does not belong to a ship but who has the conduct of it,

“pollution” means significant pollution in the United Kingdom, United Kingdom waters or an area of the sea specified under section 129(2)(b), and

“risk to safety” means a risk to the safety of persons, property or anything navigating in or using United Kingdom waters.

(2) In this Schedule “hazardous substance” means—

- (a) oil (within the meaning given by section 151(1)),
- (b) any other substance which creates a hazard to human health, harms living resources or marine life, damages amenities or interferes with lawful use of the sea, and
- (c) any substance prescribed by order of the Secretary of State.

#### *Savings*

23 Nothing in this Schedule shall be taken to prejudice any right or power of Her Majesty’s Government.

#### *Savings*

24 (1) This paragraph applies where action is taken—

- (a) in respect of a ship which is under arrest or in respect of anything in a ship which is under arrest, and
- (b) in accordance with a direction under this Schedule or by virtue of paragraph 4.

(2) The action shall not—

- (a) be treated as a contempt of court, or
- (b) give rise to civil liability on the part of the Admiralty Marshal (including the Admiralty Marshal of the <sup>F322</sup>Court of Judicature] in Northern Ireland).]

#### **Textual Amendments**

**F322** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 6](#); [S.I. 2009/1604](#), art. 2(d)

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## SCHEDULE 4

### PREVENTION OF OIL POLLUTION: TRANSITORY PROVISIONS

#### CHAPTER III

##### LIABILITY FOR OIL POLLUTION

- 152 (1) In this Chapter—
- “the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969;
  - “Liability Convention country” means a country in respect of which the Liability Convention is in force; and
  - “Liability Convention State” means a State which is a party to the Convention.
- (2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Liability Convention in respect of any country so specified the Order shall, while in force, be conclusive evidence that that State is a party to the Liability Convention in respect of that country.

#### *Liability*

##### *Liability for oil pollution in case of tankers.*

- 153 (1) Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by the ship (whether as part of the cargo or otherwise) is discharged or escapes from the ship, the owner of the ship shall be liable, (except as otherwise provided by this Chapter),—
- (a) for any damage caused in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or reducing any such damage in the territory of the United Kingdom; and
  - (c) for any damage caused in the territory of the United Kingdom by any measures so taken.
- (2) Where a person incurs a liability under subsection (1) above he shall also be liable for any damage or cost for which he would be liable under that subsection if the references therein to the territory of the United Kingdom included the territory of any other Liability Convention country.
- (3) Where persistent oil is discharged or escapes from two or more ships and—
- (a) a liability is incurred under this section by the owner of each of them; but
  - (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable;
- each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

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- (4) For the purposes of this Chapter, where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one; but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape.
- (5) The <sup>M68</sup>Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the <sup>M69</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

#### Marginal Citations

**M68** 1945 c.28.

**M69** 1948 c. 23 (N.I.)

#### *Liability for oil pollution in case of other ships.*

- 154 (1) Where, as a result of any occurrence, any persistent oil is discharged or escapes from a ship other than a ship to which section 153 applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
- for any damage caused outside the ship in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - for any damage so caused in the territory of the United Kingdom by any measures so taken.
- (2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 153 applies by the contamination which might result if there were a discharge or escape of persistent oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
- for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the United Kingdom; and
  - for any damage caused outside the ship in the territory of the United Kingdom by any measures so taken;
- and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.
- (3) Where—
- as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
  - the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,
- each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

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(4) The <sup>M70</sup>Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the <sup>M71</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

(5) In this section “ship” includes a vessel which is not seagoing.

#### Marginal Citations

**M70** 1945 c.28.

**M71** 1948 c. 23 (N.I.).

#### *Exceptions from liability under section 153.*

- 155 The owner of a ship from which persistent oil has been discharged or has escaped shall not incur any liability under section 153 if he proves that the discharge or escape—
- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
  - (b) was due wholly to anything done or left undone by another person, not being a servant or agent of the owner, with intent to do damage; or
  - (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

#### *Exceptions from liability under section 154.*

- 155A No liability shall be incurred by the owner of a ship under section 154 by reason of any discharge or escape of persistent oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination—
- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
  - (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
  - (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

#### *Restriction of liability for oil pollution.*

- 156 Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by the ship is discharged or escapes then, whether or not the owner incurs a liability under section 153—
- (a) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned therein; and
  - (b) no servant or agent of the owner nor any person performing salvage operations with the agreement of the owner shall be liable for any such damage or cost.

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*Restriction of liability for oil pollution from ship within section 154.*

- 156A (1) Where, as a result of any occurrence—
- (a) any persistent oil is discharged or escapes from a ship to which section 154 applies, or
  - (b) there arises a relevant threat of contamination,
- then, whether or not the owner of the ship in question incurs a liability under section 154—
- (i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and
  - (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent by him to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.
- (2) Subsection (1)(ii) of this section applies to—
- (a) any servant or agent of the owner of the ship;
  - (b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;
  - (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
  - (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
  - (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 154;
  - (f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.
- (3) The liability of the owner of a ship under section 154 for any impairment of the environment shall be taken to be a liability only in respect of—
- (a) any resulting loss of profits, and
  - (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

*Limitation of liability*

*Limitation of liability under section 153.*

- 157 (1) Where the owner of a ship incurs liability under section 153 by reason of a discharge or escape which has occurred without his actual fault or privity then—
- (a) he may limit that liability in accordance with the provisions of this Chapter, and
  - (b) if he does so, his liability (that is to say, the aggregate of his liabilities under section 153 resulting from the discharge or escape) shall not exceed 133 special drawing rights for each ton of the ship's tonnage nor (where that tonnage would result in a greater amount) 14 million special drawing rights.
- (2) For the purposes of this section the tonnage of a ship shall be ascertained as follows—
- (a) where the registered tonnage of the ship has been or can be ascertained in accordance with the tonnage regulations, the ship's tonnage shall be the registered tonnage of the ship as so ascertained but without making

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- any deduction required by those regulations of any tonnage allowance for propelling machinery space;
- (b) where the ship is of a description with respect to which no provision is for the time being made by the tonnage regulations, the tonnage of the ship shall be taken to be 40 per cent of the weight (expressed in tons of 2,240 lbs) of oil which the ship is capable of carrying;
  - (c) where the tonnage of the ship cannot be ascertained in accordance with either paragraph (a) or paragraph (b) above, a surveyor of ships shall, if so directed by the court, certify what, on the evidence specified in the direction, would in his opinion be the tonnage of the ship as ascertained in accordance with paragraph (a), or (as the case may be) paragraph (b), above if the ship could be duly measured for the purpose; and the tonnage stated in his certificate shall be taken to be the tonnage of the ship.

*Limitation actions.*

- 158 (1) Where the owner of a ship has or is alleged to have incurred a liability under section 153 he may apply to the court for the limitation of that liability to an amount determined in accordance with section 157.
- (2) If on such an application the court finds that the applicant has incurred such a liability and is entitled to limit it, the court shall, after determining the limit of the liability and directing payment into the court of the amount of that limit,—
- (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
  - (b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to subsections (7) to (10) below.
- (3) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling in accordance with subsection (4) below.
- (4) 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—
- (a) the day on which the determination is made, 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.
- (5) A certificate given by or on behalf of the Treasury stating—
- (a) that a particular sum in sterling has been fixed by the International Monetary Fund for the day on which the determination was made; or
  - (b) 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 Chapter.
- (6) 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.
- (7) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.



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- (8) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends,—
- (a) by the owner or the person referred to in section 165 as “the insurer”; or
  - (b) by a person who has or is alleged to have incurred a liability, otherwise than under section 153, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of section 185 or 186;
- the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.
- (9) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.
- (10) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the United Kingdom.

*Restriction on enforcement after establishment of limitation fund.*

- 159 (1) Where the court has found that a person who has incurred a liability under section 153 is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount—
- (a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
  - (b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs (or, in Scotland, expenses);
- if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 158 had been taken.
- (2) In the application of this section to Scotland, any reference (however expressed) to release from arrest shall be construed as a reference to the recall of an arrestment.

*Concurrent liabilities of owners and others.*

- 160 Where, as a result of any discharge or escape of persistent oil from a ship, the owner of the ship incurs a liability under section 153 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) of that section then, if—
- (a) the owner has been found, in proceedings under section 158 to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and
  - (b) the other person is entitled to limit his liability in connection with the ship by virtue of section 185 or 186;
- no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

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*Establishment of limitation fund outside United Kingdom.*

- 161 Where the events resulting in the liability of any person under section 153 also resulted in a corresponding liability under the law of another Liability Convention country sections 159 and 160 shall apply as if the references to sections 153 and 158 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

*Extinguishment of claims.*

- 162 No action to enforce a claim in respect of a liability incurred under section 153 or 154 shall be entertained by any court in the United Kingdom unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape by reason of which the liability was incurred.

*Compulsory insurance*

*Compulsory insurance against liability for pollution.*

- 163 (1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) below shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of persistent oil of a description specified in regulations made by the Secretary of State.
- (2) The ship shall not enter or leave a port in the United Kingdom or arrive at or leave a terminal in the territorial sea of the United Kingdom nor, if the ship is a United Kingdom ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) below and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).

For the purposes of this subsection the reference in Article VII to Article V of the Liability Convention shall be construed as a reference to Article V as amended by Article II of the protocol dated 19th November 1976 to the Liability Convention.

- (3) The certificate must be—
- (a) if the ship is a United Kingdom ship, a certificate issued by the Secretary of State;
  - (b) if the ship is registered in a Liability Convention country other than the United Kingdom, a certificate issued by or under the authority of the government of the other Liability Convention country; and
  - (c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Secretary of State or a certificate recognised for the purposes of this paragraph by regulations made under this section.
- (4) The Secretary of State may by regulations provide that certificates in respect of ships registered in any, or any specified, country which is not a Liability Convention country shall, in such circumstances as may be specified in the regulations, be recognised for the purposes of subsection (3)(c) above if issued by or under the authority of the government of the country designated in the regulations for that

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purpose; and the country that may be so designated may be either or both of the following, that is to say—

- (a) the country in which the ship is registered; and
- (b) any country specified in the regulations for the purposes of this paragraph.

- (5) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any officer of customs and excise or of the Secretary of State and, if the ship is a United Kingdom ship, to any proper officer.
- (6) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) above, the master or owner shall be liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to a fine.
- (7) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (5) above, the master shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) If a ship attempts to leave a port in the United Kingdom in contravention of this section the ship may be detained.

*Issue of certificate by Secretary of State.*

- 164 (1) Subject to subsection (2) below, if the Secretary of State is satisfied, on an application for such a certificate as is mentioned in section 163 in respect of a United Kingdom ship or a ship registered in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Secretary of State shall issue such a certificate to the owner.

For the purposes of this subsection the reference in Article VII to Article V of the Liability Convention shall be construed as a reference to Article V as amended by Article II of the protocol dated 19th November 1976 to the Liability Convention.

- (2) If the Secretary of State is of opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his obligations thereunder, or whether the insurance or other security will cover the owner's liability under section 153 in all circumstances, he may refuse the certificates.
- (3) The Secretary of State may make regulations providing for the cancellation and delivery up of a certificate under this section in such circumstances as may be prescribed by the regulations.
- (4) If a person required by regulations under subsection (3) above to deliver up a certificate fails to do so he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) The Secretary of State shall send a copy of any certificate issued by him under this section in respect of a United Kingdom ship to the Registrar General of Shipping and Seamen, and the Registrar shall make the copy available for public inspection.

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*Rights of third parties against insurers.*

- 165 (1) Where it is alleged that the owner of a ship has incurred a liability under section 153 as a result of any discharge or escape of oil occurring while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 163 related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as “the insurer”).
- (2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner’s liability) to prove that the discharge or escape was due to the wilful misconduct of the owner himself.
- (3) The insurer may limit his liability in respect of claims made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability but the insurer may do so whether or not the discharge or escape occurred without the owner’s fault or privity.
- (4) Where the owner and the insurer each apply to the court for the limitation of his liability any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.
- (5) The <sup>M72</sup>Third Parties (Rights against Insurers) Act 1930 and the <sup>M73</sup>Third Parties (Rights against Insurers) Act (Northern Ireland) 1930 shall not apply in relation to any contract of insurance to which such a certificate as is mentioned in section 163 relates.

**Marginal Citations**

**M72** 1930 c.25.

**M73** 1930 c.9 (N.I.)

*Supplementary*

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

- 166 (1) Paragraph 1(1)(d) of Schedule 1 to the <sup>M74</sup>Administration of Justice Act 1956 (Admiralty jurisdiction in claims for damage done by ships) shall be construed as extending to any claim in respect of a liability incurred under this Chapter, and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim.
- (2) Where any persistent oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the territory of the United Kingdom and no measures are reasonably taken to prevent or reduce such damage in that territory, no court in the United Kingdom shall entertain an action (whether in rem or in personam) to enforce a claim arising from—
- (a) any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape;
  - (b) any cost incurred in taking measures to prevent or reduce such damage in the territory of another Liability Convention country; or
  - (c) any damage caused by any measures so taken.

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- (3) Part I of the <sup>M75</sup>Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this section, to any judgment given by a court in a Liability Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153; and in its application to such a judgment that Part shall have effect with the omission of section 4(2) and (3) of that Act.

#### Marginal Citations

M74 1956 c.46

M75 1933 c. 13.

#### *Government ships.*

- 167 (1) Nothing in the preceding provisions of this Chapter applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.
- (2) In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with section 163(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Liability Convention as amended by Article II of the protocol dated 19th November 1976 to the Liability Convention.
- (3) Every Liability Convention State shall, for the purposes of any proceedings brought in a court in the United Kingdom to enforce a claim in respect of a liability incurred under section 153, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, or in Scotland the execution of diligence, against the property of any State.

#### *Limitation of liability under section 154.*

- 168 For the purposes of section 185 any liability incurred under section 154 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in paragraph 1(a) of Article 2 of the Liability Convention in Part I of Schedule 7.

#### *Saving for recourse actions.*

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

#### *Interpretation.*

- 170 (1) In this Chapter—  
“the court” means the High Court or the Court of Session;

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“damage” includes loss;

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

“relevant threat of contamination” shall be construed in accordance with section 154(2).

- (2) In relation to any damage or cost resulting from the discharge or escape of any oil carried in a ship, or from a relevant threat of contamination, references in this Chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.
- (3) References in this Chapter in its application to Scotland—
- (a) to payment into court, shall be construed as references to payment to the Accountant of Court for Consignation (within the meaning of the <sup>M76</sup>Court of Session Consignations (Scotland) Act 1895); and
  - (b) to costs, shall be construed as references to expenses.
- (4) References in this Chapter to the territory of any country include the territorial sea of that country.

#### Marginal Citations

M76 1895 c. 19.

## CHAPTER IV

### INTERNATIONAL OIL POLLUTION

#### COMPENSATION FUND

##### *Preliminary*

*Meaning of “Liability Convention”, “the Fund Convention” and related expressions.*

- 172 (1) In this Chapter—
- (a) “the Liability Convention” has the same meaning as in Chapter III of this Part;
  - (b) “the Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage opened for signature in Brussels on 18th December 1971;
  - (c) “the Fund” means the International Fund established by the Fund Convention; and
  - (d) “Fund Convention country” means a country in respect of which the Fund Convention is in force.

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

### *Contributions to Fund*

#### *Contributions by importers of oil and others.*

- 173 (1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in the United Kingdom otherwise than on a voyage only within its national waters.
- (2) Subsection (1) above applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.
- (3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in the United Kingdom after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.
- (4) The person liable to pay contributions is—
- (a) in the case of oil which is being imported into the United Kingdom, the importer, and
  - (b) otherwise, the person by whom the oil is received.
- (5) A person shall not be liable to make contributions in respect of the oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.
- (6) For the purpose of subsection (5) above—
- (a) all the members of a group of companies shall be treated as a single person, and
  - (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.
- (7) The contributions payable by a person for any year shall—
- (a) be of such amount as may be determined by the Assembly of the Fund under articles 11 and 12 of the Fund Convention (as amended by article III of the protocol dated 19th November 1976 to that Convention) and notified to that person by the Fund;
  - (b) be payable in such instalments, becoming due at such times, as may be so notified to him;
- and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.
- (8) The Secretary of State may by regulations impose on persons who are or may be liable to pay contributions under this section obligations to give security for payment to the Secretary of State, or the Fund.
- (9) Regulations under subsection (8) above—

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- (a) may contain such supplemental or incidental provisions as appear to the Secretary of State expedient, and
  - (b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding level 5 on the standard scale, or such lower limit as may be specified in the regulations.
- (10) In this section and in section 174, unless the context otherwise requires—
- “company” means a body incorporated under the law of the United Kingdom, or of any other country;
- “group” in relation to companies, means a holding company and its subsidiaries as defined by section 736 of the <sup>M77</sup>Companies Act 1985 (or for companies in Northern Ireland Article 4 of the <sup>M78</sup>Companies (Northern Ireland) Order 1986), subject, in the case of a company incorporated outside the United Kingdom, to any necessary modifications of those definitions;
- “importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;
- “oil” means crude oil and fuel oil, and
- (a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes—
    - (i) crude oils from which distillate fractions have been removed, and
    - (ii) crude oils to which distillate fractions have been added,
  - (b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D396-69)”, or heavier,
- “terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

#### Marginal Citations

**M77** 1985 c. 6

**M78** S.I. 1986/1032 (NI 6).

#### *Power to obtain information.*

- 174 (1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 173 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Secretary of State may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.
- (2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 173(6).
- (3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.



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- (4) In proceedings by the Fund against any person to recover any amount due under section 173, particulars contained in any list transmitted by the Secretary of State to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.
- (5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connection with the execution of this section, then, unless the disclosure is made—
- (a) with the consent of the person from whom the information was obtained, or
  - (b) in connection with the execution of this section, or
  - (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,
- he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A person who—
- (a) refuses or intentionally neglects to comply with a notice under this section, or
  - (b) in furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,
- shall be liable—
- (i) on summary conviction, to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph (a) above and not exceeding the statutory maximum in the case of an offence under paragraph (b) above, and
  - (ii) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding twelve months, or to both.

#### *Compensation for persons suffering pollution damage*

#### *Liability of the Fund.*

- 175 (1) The Fund shall be liable for pollution damage in the territory of the United Kingdom if the person suffering the damage has been unable to obtain full compensation under section 153—
- (a) because the discharge or escape causing the damage—
    - (i) resulted from an exceptional, inevitable and irresistible phenomenon, or
    - (ii) was due wholly to anything done or left undone by another person (not being a servant or agent of the owner) with intent to do damage, or
    - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible,(and because liability is accordingly wholly displaced by section 155), or
  - (b) because the owner or guarantor liable for the damage cannot meet his obligations in full, or

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- (c) because the damage exceeds the liability under section 153 as limited by section 157.
- (2) Subsection (1) above shall apply with the substitution for the words “ United Kingdom ” of the words “ a Fund Convention country ” where—
- (a) the headquarters of the Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country, or
- (b) the incident has caused pollution damage in the territory of the United Kingdom and of another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the United Kingdom.
- (3) Where the incident has caused pollution damage in the territory of the United Kingdom and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter III of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.
- (4) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country and the Fund is liable for that pollution damage by virtue of subsection (2)(a) above, references in this section to the provisions of Chapter III of this Part shall be treated as references to the corresponding provisions of the law of the country in which those proceedings were brought.
- (5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.
- (6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 153.
- (7) The Fund shall incur no obligation under this section if—
- (a) it proves that the pollution damage—
- (i) resulted from an act of war, hostilities, civil war or insurrection, or
- (ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service, or
- (b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.
- (8) Subject to subsection (9) below, if the Fund proves that the pollution damage resulted wholly or partly—
- (a) from an act or omission done with intent to cause damage by the person who suffered the damage, or
- (b) from the negligence of that person,

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the Fund may be exonerated wholly or partly from its obligation to pay compensation to that person.

- (9) Subsection (8) above does not apply to a claim in respect of expenses or sacrifices made voluntarily to prevent or minimise pollution damage.
- (10) Where the liability under section 153 is limited to any extent by subsection (5) of that section, the Fund shall be exonerated to the same extent.

*Limitation of Fund's liability under section 175.*

- 176 (1) The Fund's liability under section 175 shall be subject to the limits imposed by paragraphs 4, 5 and 6 of article 4 of the Fund Convention (as amended by Article III of the protocol dated 19th November 1976 to that Convention) which impose an overall limit on the liabilities of the owner and of the Fund, and the text of which is set out in Part II of Schedule 5.
- (2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.
- (3) For the purpose of giving effect to paragraphs 4, 5 and 6 of Article 4 of the Fund Convention a court giving judgment against the Fund in proceedings under section 175 shall notify the Fund, and—
- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,
  - (b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and
  - (c) in the latter case the judgment shall be enforceable only for the reduced amount.
- (4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) above shall be steps to obtain payment in sterling; and 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—
- (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.
- (5) A certificate given by or on behalf of the Treasury stating—
- (a) that a particular sum in sterling has been so fixed for the day on which the judgment was given; or
  - (b) that no sum has been 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 Chapter.

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- (6) 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.

### *Indemnification of shipowners*

#### *Indemnification where damage is caused by ship registered in Fund Convention country.*

- 176A (1) Where a liability is incurred under section 153 in respect of a ship registered in a Fund Convention country the Fund shall indemnify the owner and his guarantor for that portion of the aggregate amount of the liability which—
- (a) is in excess of an amount equivalent to 100 special drawing rights for each ton of the ship's tonnage or of an amount of 8,333,000 special drawing rights, whichever is the less, and
  - (b) is not in excess of an amount equivalent to 133 special drawing rights for each ton of the said tonnage or an amount of 14 million special drawing rights, whichever is the less.
- (2) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country (but is a country in respect of which the Liability Convention is in force), and either—
- (a) the incident has caused pollution damage in the territory of the United Kingdom (as well as in the territory of that other country); or
  - (b) the headquarters of the Fund is for the time being in the United Kingdom, subsection (1) above shall apply with the omission of the words “under section 153”.
- (3) The Fund shall not incur an obligation under this section where the pollution damage resulted from the wilful misconduct of the owner.
- (4) In proceedings to enforce the Fund's obligation under this section the court may exonerate the Fund wholly or partly if it is proved that, as a result of the actual fault or privity of the owner—
- (a) the ship did not comply with such requirements as the Secretary of State may by order prescribe for the purposes of this section, and
  - (b) the occurrence or damage was caused wholly or partly by that non-compliance.
- (5) The requirements referred to in subsection (4) above are such requirements as appear to the Secretary of State appropriate to implement the provisions of—
- (a) Article 5(3) of the Fund Convention (marine safety conventions), and
  - (b) Article 5(4) of the Fund Convention (which enables the Assembly of the Fund to substitute new conventions).
- (6) An order made under subsection (4) above may contain such transitional and other supplemental provisions as appear to the Secretary of State to be expedient.
- (7) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise the pollution damage shall be treated as included in the owner's liability for the purposes of this section.
- (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

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mentioned in subsection (4) above, subsections (4) to (6) of section 176 shall have effect—

- (a) if the liability in question has been limited in pursuance of section 158, as if—
  - (i) for the reference in the said subsection (4) 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 158; 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.

### *Supplemental*

#### *Jurisdiction and effect of judgments.*

- 177 (1) Paragraph 1(1)(d) of Schedule 1 to the <sup>M79</sup>Administration of Justice Act 1956 (Admiralty jurisdiction in claims for damage done by ships) shall be construed as extending to any claim in respect of a liability falling on the Fund under this Chapter; and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim.
- (2) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 153, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.
  - (3) Where a person incurs a liability under the law of a Fund Convention Country corresponding to Chapter III of this Part for damage which is partly in the territory of the United Kingdom, subsection (2) above shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.
  - (4) Subject to subsection (5) below, Part I of the <sup>M80</sup>Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this subsection, to any judgment given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 175 or 176A; and in its application to such a judgment the said Part I shall have effect with the omission of sections 4(2) and (3) of the Act of 1933.
  - (5) No steps shall be taken to enforce such a judgment unless and until the court in which it is registered under Part I of the Act of 1933 gives leave to enforce it; and—
    - (a) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under paragraph 4 of article 4 of the Fund Convention (as set out in Part II of Schedule 5) or that it is to be reduced to a specified amount; and

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- (b) in the latter case, the judgment shall be enforceable only for the reduced amount.

#### Marginal Citations

**M79** 1956 c.46

**M80** 1933 c. 13.

#### *Extinguishment of claims.*

- 178 (1) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the United Kingdom unless—
- (a) the action is commenced, or
  - (b) a third party notice of an action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund,
- not later than three years after the claim against the Fund arose.

In this subsection “third party notice” means a notice of the kind described in section 177(2) and (3).

- (2) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the United Kingdom unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape by reason of which the claim against the Fund arose.
- (3) Notwithstanding the preceding provisions of this section, a person’s right to bring an action under the section 176A shall not be extinguished before six months from the date when that person first acquired knowledge of the bringing of an action against him under Chapter III of this Part, or under the corresponding provisions of the law of any country outside the United Kingdom giving effect to the Liability Convention.

#### *Subrogation.*

- 179 (1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.
- (2) The right of the Fund under subsection (1) above is subject to any obligation of the Fund under section 176A above to indemnify the owner or guarantor for any part of the liability on which he has defaulted.
  - (3) In respect of any sum paid by a public authority in the United Kingdom as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

#### *Interpretation.*

- 181 (1) In this Chapter, unless the context otherwise requires—
- “damage” includes loss;
  - “discharge or escape”, in relation to pollution damage, means the discharge or escape of oil carried by the ship;

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“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 163;

“oil”, except in sections 173 and 174, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever the escape or discharge may occur, and includes the cost of preventive measures and further damage caused by preventive measures;

“preventive measures” means any reasonable measures taken by any person after the occurrence to prevent or minimise pollution damage; and

“ship” means any sea-going ship and any seaborne craft of any type whatsoever carrying oil in bulk as cargo.

(2) References in this Chapter to the territory of any country include the territorial sea of that country, and references to pollution damage in the United Kingdom shall be construed accordingly.

(3) For the purposes of this Chapter a ship’s tonnage shall be the net tonnage of the ship with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage.

If the ship cannot be measured in accordance with the normal rules, its tonnage shall be deemed to be 40 per cent of the weight in tons (of 2,240 lbs) of oil which the ship is capable of carrying.

(4) For the purposes of this Chapter, where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

## SCHEDULE 5

Section 176.

### OVERALL LIMIT ON LIABILITY OF FUND

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

- C213** Sch. 5 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to Pitcairn, Henderson, Ducie and Oeno Islands (30.11.1997) by [S.I. 1997/2585, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)

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Sch. 5 extended (with modifications) to South Georgia and South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**

Sch. 5 extended (with modifications) to Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**

Sch. 5 extended (with modifications) to Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**

Sch. 5 extended (with modifications) to Monserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**

Sch. 5 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## PART I

### PERMANENT PROVISION

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

**C214** Sch. 5 Pt I extended (with modifications) to Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**

Sch. Pt. I extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**

Sch. 5 Pt.I extended (with modifications) to Guernsey (11.3.1998) by 1998/260, arts. 2, 3, **Sch.**

#### Article 4 — paragraphs 4 and 5

- 4 (a) Except as otherwise provided in sub-paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed [<sup>F323</sup>203 million] units of account.
- (b) Except as otherwise provided in sub-paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed [<sup>F324</sup>203 million] units of account.
- (c) The maximum amount of compensation referred to in sub-paragraphs (a) and (c) shall be [<sup>F325</sup>300.74 million] units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.
- (d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.
- (e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.



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### Textual Amendments

- F323** Words in Sch. 5 Pt. 1 para. 4(a) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), [arts. 1, 2\(3\)\(a\)](#)
- F324** Words in Sch. 5 Pt. 1 para. 4(b) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), [arts. 1, 2\(3\)\(a\)](#)
- F325** Words in Sch. 5 Pt. 1 para. 4(c) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), [arts. 1, 2\(3\)\(b\)](#)

- 5 Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

## PART II

### TRANSITORY PROVISION

#### *Article 4 — paragraphs 4, 5 and 6*

- 4 (a) Except as otherwise provided in sub-paragraph (b) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage caused in the territory of the Contracting States, including any sums in respect of which the Fund is under an obligation to indemnify the owner pursuant to Article 5, paragraph 1, of this Convention, shall not exceed 30 million special drawing rights,
- (b) The aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 30 million special drawing rights.
- 5 Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under the Liability Convention and this Convention shall be the same for all claimants.
- 6 The Assembly of the Fund (hereinafter referred to as “the Assembly”) may, having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to changes in the monetary values, decide that the amount of 30 million special drawing rights referred to in paragraph 4, subparagraph (a) and (b), shall be changed; provided, however, that this amount shall in no case exceed 60 million special drawing rights or be lower than 30 million special drawing rights. The changed amount shall apply to incidents which occur after the date of the decision effecting the change.

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## <sup>F326</sup>SCHEDULE 5ZA

### SUPPLEMENTARY FUND LIABILITY

#### Textual Amendments

**F326** Sch. 5ZA inserted (8.9.2006) by The Merchant Shipping (Oil Pollution) (Supplementary Fund Protocol) Order 2006 (S.I. 2006/1265), arts. 1(2), 12, Sch.

#### *Article 4—paragraphs 1, 2 and 3*

- 1 The Supplementary Fund shall pay compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for an established claim for such damage under the terms of the 1992 Fund Convention, because the total damage exceeds, or there is a risk that it will exceed, the applicable limit of compensation laid down in article 4, paragraph 4, of the 1992 Fund Convention in respect of any one incident.
- 2 (a) The aggregate amount of compensation payable by the Supplementary Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount together with the amount of compensation actually paid under the 1992 Liability Convention and the 1992 Fund Convention within the scope of application of this Protocol shall not exceed 750 million units of account.
- (b) The amount of 750 million units of account mentioned in paragraph 2(a) shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date determined by the Assembly of the 1992 Fund for conversion of the maximum amount payable under the 1992 Liability and 1992 Fund Conventions.
- 3 Where the amount of established claims against the Supplementary Fund exceeds the aggregate amount of compensation payable under paragraph 2, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Protocol shall be the same for all claimants.

#### *Article 13—paragraph 1*

- 1 Contracting States shall communicate to the Director of the Supplementary Fund information on oil receipts in accordance with article 15 of the 1992 Fund Convention provided, however, that communications made to the Director of the 1992 Fund under article 15, paragraph 2, of the 1992 Fund Convention shall be deemed to have been made also under this Protocol.

#### *Article 15—paragraphs 1, 2 and 3*

- 1 If in a Contracting State there is no person meeting the conditions of article 10, that Contracting State shall for the purposes of this Protocol inform the Director of the Supplementary Fund thereof.
- 2 No compensation shall be paid by the Supplementary Fund for pollution damage in the territory, territorial sea or exclusive economic zone or area determined in accordance with article 3(a)(ii), of this Protocol, of a Contracting State in respect

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of a given incident or for preventive measures, wherever taken, to prevent or minimize such damage, until the obligations to communicate to the Director of the Supplementary Fund according to article 13, paragraph 1 and paragraph 1 of this article have been complied with in respect of that Contracting State for all years prior to the occurrence of that incident. The Assembly shall determine in the Internal Regulations the circumstances under which a Contracting State shall be considered as having failed to comply with its obligations.

- 3 Where compensation has been denied temporarily in accordance with paragraph 2, compensation shall be denied permanently in respect of that incident if the obligations to communicate to the Director of the Supplementary Fund under article 13, paragraph 1 and paragraph 1 of this article, have not been complied with within one year after the Director of the Supplementary Fund has notified the Contracting State of its failure to report.]

#### [<sup>F327</sup>SCHEDULE 5A

##### Textual Amendments

**F327** Sch. 5A inserted (17.7.1997) by 1997 c. 28, s. 14(2), **Sch. 3**; S.I. 1997/1539, art. 2, **Sch.**

#### *Text of International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea*

The States parties to the present Convention,

Conscious of the dangers posed by the world-wide carriage by sea of hazardous and noxious substances,

Convinced of the need to ensure that adequate, prompt and effective compensation is available to persons who suffer damage caused by incidents in connection with the carriage by sea of such substances,

Desiring to adopt uniform international rules and procedures for determining questions of liability and compensation in respect of such damage,

Considering that the economic consequences of damage caused by the carriage by sea of hazardous and noxious substances should be shared by the shipping industry and the cargo interests involved,

Have agreed as follows:

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## CHAPTER I

### GENERAL PROVISIONS

#### DEFINITIONS

##### *Article 1*

For the purposes of this Convention:

1. “Ship” means any seagoing vessel and seaborne craft, of any type whatsoever.
2. “Person” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. “Owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship’s operator, “owner” shall mean such company.
4. “Receiver” means either:
  - (a) the person who physically receives contributing cargo discharged in the ports and terminals of a State Party; provided that if at the time of receipt the person who physically receives the cargo acts as an agent for another who is subject to the jurisdiction of any State Party, then the principal shall be deemed to be the receiver, if the agent discloses the principal to the HNS Fund; or
  - (b) the person in the State Party who in accordance with the national law of that State Party is deemed to be the receiver of contributing cargo discharged in the ports and terminals of a State Party, provided that the total contributing cargo received according to such national law is substantially the same as that which would have been received under (a).
5. “Hazardous and noxious substances” (HNS) means:
  - (a) any substances, materials and articles carried on board a ship as cargo, referred to in (i) to (vii) below:
    - (i) oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
    - (ii) noxious liquid substances carried in bulk referred to in appendix II of Annex II to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and those substances and mixtures provisionally categorized as falling in pollution category A, B, C or D in accordance with regulation 3(4) of the said Annex II;
    - (iii) dangerous liquid substances carried in bulk listed in chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, 1983, as amended, and the dangerous products for which the preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.3 of the Code;

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(iv) dangerous, hazardous and harmful substances, materials and articles in packaged form covered by the International Maritime Dangerous Goods Code, as amended;

(v) liquefied gases as listed in chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, 1983, as amended, and the products for which preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.6 of the Code;

(vi) liquid substances carried in bulk with a flashpoint not exceeding 60°C (measured by a closed cup test);

(vii) solid bulk materials possessing chemical hazards covered by appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended, to the extent that these substances are also subject to the provisions of the International Maritime Dangerous Goods Code when carried in packaged form; and

(b) residues from the previous carriage in bulk of substances referred to in (a)(i) to (iii) and (v) to (vii) above.

6. “Damage” means:

(a) loss of life or personal injury on board or outside the ship carrying the hazardous and noxious substances caused by those substances;

(b) loss of or damage to property outside the ship carrying the hazardous and noxious substances caused by those substances;

(c) loss or damage by contamination of the environment caused by the hazardous and noxious substances, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and

(d) the costs of preventive measures and further loss or damage caused by preventive measures.

Where it is not reasonably possible to separate damage caused by the hazardous and noxious substances from that caused by other factors, all such damage shall be deemed to be caused by the hazardous and noxious substances except if, and to the extent that, the damage caused by other factors is damage of a type referred to in article 4, paragraph 3.

In this paragraph, “caused by those substances” means caused by the hazardous or noxious nature of the substances.

7. “Preventive measures” means any reasonable measures taken by any person after an incident has occurred to prevent or minimize damage.

8. “Incident” means any occurrence or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage.

9. “Carriage by sea” means the period from the time when the hazardous and noxious substances enter any part of the ship’s equipment, on loading, to the time they cease to be present in any part of the ship’s equipment, on discharge. If no ship’s equipment is used, the period begins and ends respectively when the hazardous and noxious substances cross the ship’s rail.

10. “Contributing cargo” means any hazardous and noxious substances which are carried by sea as cargo to a port or terminal in the territory of a State Party and discharged in that State. Cargo in transit which is transferred directly, or through a port or terminal, from one ship to another, either wholly or in part, in the course of carriage from the port or terminal of original loading to

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the port or terminal of final destination shall be considered as contributing cargo only in respect of receipt at the final destination.

11. The “HNS Fund” means the International Hazardous and Noxious Substances Fund established under article 13.

12. “Unit of account” means the Special Drawing Right as defined by the International Monetary Fund.

13. “State of the ship’s registry” means in relation to a registered ship the State of registration of the ship, and in relation to an unregistered ship the State whose flag the ship is entitled to fly.

14. “Terminal” means any site for the storage of hazardous and noxious substances received from waterborne transportation, including any facility situated off-shore and linked by pipeline or otherwise to such site.

15. “Director” means the Director of the HNS Fund.

16. “Organization” means the International Maritime Organization.

17. “Secretary-General” means the Secretary-General of the Organization.

## ANNEXES

### *Article 2*

The Annexes to this Convention shall constitute an integral part of this Convention.

## SCOPE OF APPLICATION

### *Article 3*

This Convention shall apply exclusively:

- (a) to any damage caused in the territory, including the territorial sea, of a State Party;
- (b) to damage by contamination of the environment caused in the exclusive economic zone of a State Party, established in accordance with international law, or, if a State Party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;
- (c) to damage, other than damage by contamination of the environment, caused outside the territory, including the territorial sea, of any State, if this damage has been caused by a substance carried on board a ship registered in a State Party or, in the case of an unregistered ship, on board a ship entitled to fly the flag of a State Party; and
- (d) to preventive measures, wherever taken.

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#### Article 4

1. This Convention shall apply to claims, other than claims arising out of any contract for the carriage of goods and passengers, for damage arising from the carriage of hazardous and noxious substances by sea.
2. This Convention shall not apply to the extent that its provisions are incompatible with those of the applicable law relating to workers' compensation or social security schemes.
3. This Convention shall not apply:
  - (a) to pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended, whether or not compensation is payable in respect of it under that Convention; and
  - (b) to damage caused by a radioactive material of class 7 either in the International Maritime Dangerous Goods Code, as amended, or in appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended.
4. Except as provided in paragraph 5, the provisions of this Convention shall not apply to warships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.
5. A State Party may decide to apply this Convention to its warships or other vessels described in paragraph 4, in which case it shall notify the Secretary-General thereof specifying the terms and conditions of such application.
6. With respect to ships owned by a State Party and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in article 38 and shall waive all defences based on its status as a sovereign State.

#### Article 5

1. A State may, at the time of ratification, acceptance, approval of, or accession to, this Convention, or any time thereafter, declare that this Convention does not apply to ships:
  - (a) which do not exceed 200 gross tonnage; and
  - (b) which carry hazardous and noxious substances only in packaged form; and
  - (c) while they are engaged on voyages between ports or facilities of that State.
2. Where two neighbouring States agree that this Convention does not apply also to ships which are covered by paragraph 1(a) and (b) while engaged on voyages between ports or facilities of those States, the States concerned may declare that the exclusion from the application of this Convention declared under paragraph 1 covers also ships referred to in this paragraph.
3. Any State which has made the declaration under paragraph 1 or 2 may withdraw such declaration at any time.
4. A declaration made under paragraph 1 or 2, and the withdrawal of the declaration made under paragraph 3, shall be deposited with the Secretary-General who shall, after the entry into force of this Convention, communicate it to the Director.
5. Where a State has made a declaration under paragraph 1 or 2 and has not withdrawn it, hazardous and noxious substances carried on board ships covered by that paragraph shall not be considered to be contributing cargo for the purpose of application of articles 18, 20, article 21, paragraph 5 and article 43.

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6. The HNS Fund is not liable to pay compensation for damage caused by substances carried by a ship to which the Convention does not apply pursuant to a declaration made under paragraph 1 or 2, to the extent that:

(a) the damage as defined in article 1, paragraph 6(a), (b) or (c) was caused in:

(i) the territory, including the territorial sea, of the State which has made the declaration, or in the case of neighbouring States which have made a declaration under paragraph 2, of either of them; or

(ii) the exclusive economic zone, or area mentioned in article 3(b), of the State or States referred to in (i);

(b) the damage includes measures taken to prevent or minimize such damage.

## DUTIES OF STATE PARTIES

### *Article 6*

Each State Party shall ensure that any obligation arising under this Convention is fulfilled and shall take appropriate measures under its law including the imposing of sanctions as it may deem necessary, with a view to the effective execution of any such obligation.

## CHAPTER II

### LIABILITY

#### LIABILITY OF THE OWNER

### *Article 7*

1. Except as provided in paragraphs 2 and 3, the owner at the time of an incident shall be liable for damage caused by any hazardous and noxious substances in connection with their carriage by sea on board the ship, provided that if an incident consists of a series of occurrences having the same origin the liability shall attach to the owner at the time of the first of such occurrences.

2. No liability shall attach to the owner if the owner proves that:

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

(b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party; or

(c) the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function; or

(d) the failure of the shipper or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either



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(i) has caused the damage, wholly or partly; or

(ii) has led the owner not to obtain insurance in accordance with article 12;

provided that neither the owner nor its servants or agents knew or ought reasonably to have known of the hazardous and noxious nature of the substances shipped.

3. If the owner proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from liability to such person.

4. No claim for compensation for damage shall be made against the owner otherwise than in accordance with this Convention.

5. Subject to paragraph 6, no claim for compensation for damage under this Convention or otherwise may be made against:

(a) the servants or agents of the owner or the members of the crew;

(b) the pilot or any other person who, without being a member of the crew, performs services for the ship;

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

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

(e) any person taking preventive measures; and

(f) the servants or agents of persons mentioned in (c), (d) and (e);

unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

6. Nothing in this Convention shall prejudice any existing right of recourse of the owner against any third party, including, but not limited to, the shipper or the receiver of the substance causing the damage, or the persons indicated in paragraph 5.

## INCIDENTS INVOLVING TWO OR MORE SHIPS

### Article 8

1. Whenever damage has resulted from an incident involving two or more ships each of which is carrying hazardous and noxious substances, each owner, unless exonerated under article 7, shall be liable for the damage. The owners shall be jointly and severally liable for all such damage which is not reasonably separable.

2. However, owners shall be entitled to the limits of liability applicable to each of them under article 9.

3. Nothing in this article shall prejudice any right of recourse of an owner against any other owner.

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## LIMITATION OF LIABILITY

### Article 9

1. The owner of a ship shall be entitled to limit liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:

(a) 10 million units of account for a ship not exceeding 2,000 units of tonnage; and

(b) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (a):

for each unit of tonnage from 2,001 to 50,000 units of tonnage, 1,500 units of account

for each unit of tonnage in excess of 50,000 units of tonnage, 360 units of account

provided, however, that this aggregate amount shall not in any event exceed 100 million units of account.

2. The owner shall not be entitled to limit liability under this Convention if it is proved that the damage resulted from the personal act or omission of the owner, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

3. The owner shall, for the purpose of benefitting from the limitation provided for in paragraph 1, constitute a fund for the total sum representing the limit of liability established in accordance with paragraph 1 with the court or other competent authority of any one of the States Parties in which action is brought under article 38 or, if no action is brought, with any court or other competent authority in any one of the States Parties in which an action can be brought under article 38. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the law of the State Party where the fund is constituted, and considered to be adequate by the court or other competent authority.

4. Subject to the provisions of article 11, the fund shall be distributed among the claimants in proportion to the amounts of their established claims.

5. If before the fund is distributed the owner or any of the servants or agents of the owner or any person providing to the owner insurance or other financial security has as a result of the incident in question, paid compensation for damage, such person shall, up to the amount that person has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

6. The right of subrogation provided for in paragraph 5 may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for damage which such person may have paid but only to the extent that such subrogation is permitted under the applicable national law.

7. Where owners or other persons establish that they may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which the right of subrogation would have been enjoyed under paragraphs 5 or 6 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 the claim against the fund.

8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall rank equally with other claims against the fund.

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9.

(a) The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3

The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State.

(b) Nevertheless, a State Party which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five-and-a-half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

(c) The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first two sentences of paragraph 9(a). States Parties shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

10. For the purpose of this article the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

11. The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this article on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limitation of liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

#### *Article 10*

1. Where the owner, after an incident, has constituted a fund in accordance with article 9 and is entitled to limit liability:

(a) no person having a claim for damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim; and

(b) the court or other competent authority of any State Party shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.

2. The foregoing shall, however, only apply if the claimant has access to the court administering the fund and the fund is actually available in respect of the claim.

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## DEATH AND INJURY

### *Article 11*

Claims in respect of death or personal injury have priority over other claims save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with article 9, paragraph 1.

## COMPULSORY INSURANCE OF THE OWNER

### *Article 12*

1. The owner of a ship registered in a State Party and actually carrying hazardous and noxious substances shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, in the sums fixed by applying the limits of liability prescribed in article 9, paragraph 1, to cover liability for damage under this Convention.

2. A compulsory insurance certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party such compulsory insurance certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in Annex I and shall contain the following particulars:

- (a) name of the ship, distinctive number or letters and port of registry;
- (b) name and principal place of business of the owner;
- (c) IMO ship identification number;
- (d) type and duration of security;
- (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
- (f) period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.

3. The compulsory insurance certificate shall be in the official language or languages of the issuing State. If the language used is neither English, nor French nor Spanish, the text shall include a translation into one of these languages.

4. The compulsory insurance certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.

5. An insurance or other financial security shall not satisfy the requirements of this article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 4, unless the compulsory insurance certificate has been issued within the said period. The foregoing

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provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this article.

6. The State of the ship's registry shall, subject to the provisions of this article, determine the conditions of issue and validity of the compulsory insurance certificate.

7. Compulsory insurance certificates issued or certified under the authority of a State Party in accordance with paragraph 2 shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as compulsory insurance certificates issued or certified by them even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the compulsory insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

8. Any claim for compensation for damage may be brought directly against the insurer or other person providing financial security for the owner's liability for damage. In such case the defendant may, even if the owner is not entitled to limitation of liability, benefit from the limit of liability prescribed in accordance with paragraph 1. The defendant may further invoke the defences (other than the bankruptcy or winding up of the owner) which the owner would have been entitled to invoke. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the owner against the defendant. The defendant shall in any event have the right to require the owner to be joined in the proceedings.

9. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention.

10. A State Party shall not permit a ship under its flag to which this article applies to trade unless a certificate has been issued under paragraph 2 or 12.

11. Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security in the sums specified in paragraph 1 is in force in respect of any ship, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an offshore facility in its territorial sea.

12. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a compulsory insurance certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed in accordance with paragraph 1. Such a compulsory insurance certificate shall follow as closely as possible the model prescribed by paragraph 2.

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### CHAPTER III

## COMPENSATION BY THE INTERNATIONAL HAZARDOUS AND NOXIOUS SUBSTANCES FUND (HNS FUND)

### ESTABLISHMENT OF THE HNS FUND

#### *Article 13*

1. The International Hazardous and Noxious Substances Fund (HNS Fund) is hereby established with the following aims:

(a) to provide compensation for damage in connection with the carriage of hazardous and noxious substances by sea, to the extent that the protection afforded by chapter II is inadequate or not available; and

(b) to give effect to the related tasks set out in article 15.

2. The HNS Fund shall in each State Party be recognized as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each State Party shall recognize the Director as the legal representative of the HNS Fund.

### COMPENSATION

#### *Article 14*

1. For the purpose of fulfilling its function under article 13, paragraph 1(a), the HNS Fund shall pay compensation to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of chapter II:

(a) because no liability for the damage arises under chapter II;

(b) because the owner liable for the damage under chapter II is financially incapable of meeting the obligations under this Convention in full and any financial security that may be provided under chapter II does not cover or is insufficient to satisfy the claims for compensation for damage; an owner being treated as financially incapable of meeting these obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under chapter II after having taken all reasonable steps to pursue the available legal remedies;

(c) because the damage exceeds the owner's liability under the terms of chapter II.

2. Expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall be treated as damage for the purposes of this article.

3. The HNS Fund shall incur no obligation under the preceding paragraphs if:

(a) it proves that the damage resulted from an act of war, hostilities, civil war or insurrection or was caused by hazardous and noxious substances which had escaped or been discharged from

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a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or

(b) the claimant cannot prove that there is a reasonable probability that the damage resulted from an incident involving one or more ships.

4. If the HNS Fund proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the HNS Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The HNS Fund shall in any event be exonerated to the extent that the owner may have been exonerated under article 7, paragraph 3. However, there shall be no such exoneration of the HNS Fund with regard to preventive measures.

5.

(a) Except as otherwise provided in subparagraph (b), the aggregate amount of compensation payable by the HNS Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount and any amount of compensation actually paid under chapter II for damage within the scope of application of this Convention as defined in article 3 shall not exceed 250 million units of account.

(b) The aggregate amount of compensation payable by the HNS Fund under this article for damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 250 million units of account.

(c) Interest accrued on a fund constituted in accordance with article 9, paragraph 3, if any, shall not be taken into account for the computation of the maximum compensation payable by the HNS Fund under this article.

(d) The amounts mentioned in this article shall be converted into national currency on the basis of the value of that currency with reference to the Special Drawing Right on the date of the decision of the Assembly of the HNS Fund as to the first date of payment of compensation.

6. Where the amount of established claims against the HNS Fund exceeds the aggregate amount of compensation payable under paragraph 5, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants

Claims in respect of death or personal injury shall have priority over other claims, however, save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with paragraph 5.

7. The Assembly of the HNS Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner has not constituted a fund in accordance with chapter II. In such cases paragraph 5(d) applies accordingly.

## RELATED TASKS OF THE HNS FUND

### *Article 15*

For the purpose of fulfilling its function under article 13, paragraph 1(a), the HNS Fund shall have the following tasks:

(a) to consider claims made against the HNS Fund;

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(b) to prepare an estimate in the form of a budget for each calendar year of:

Expenditure:

(i) costs and expenses of the administration of the HNS Fund in the relevant year and any deficit from operations in the preceding years; and

(ii) payments to be made by the HNS Fund in the relevant year;

Income:

(iii) surplus funds from operations in preceding years, including any interest;

(iv) initial contributions to be paid in the course of the year;

(v) annual contributions if required to balance the budget; and

(vi) any other income;

(c) to use at the request of a State Party its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or mitigate damage arising from an incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention; and

(d) to provide, on conditions laid down in the internal regulations, credit facilities with a view to the taking of preventive measures against damage arising from a particular incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention.

## GENERAL PROVISIONS ON CONTRIBUTIONS

### *Article 16*

1. The HNS Fund shall have a general account, which shall be divided into sectors.

2. The HNS Fund shall, subject to article 19, paragraphs 3 and 4, also have separate accounts in respect of:

(a) oil as defined in article 1, paragraph 5(a)(i) (oil account);

(b) liquefied natural gases of light hydrocarbons with methane as the main constituent (LNG) (LNG account); and

(c) liquefied petroleum gases of light hydrocarbons with propane and butane as the main constituents (LPG) (LPG account).

3. There shall be initial contributions and, as required, annual contributions to the HNS Fund.

4. Contributions to the HNS Fund shall be made into the general account in accordance with article 18, to separate accounts in accordance with article 19 and to either the general account or separate accounts in accordance with article 20 or article 21, paragraph 5. Subject to article 19, paragraph 6, the general account shall be available to compensate damage caused by hazardous and noxious substances covered by that account, and a separate account shall be available to compensate damage caused by a hazardous and noxious substance covered by that account.

5. For the purposes of article 18, article 19, paragraph 1(a)(i), paragraph 1(a)(ii) and paragraph 1(c), article 20 and article 21, paragraph 5, where the quantity of a given type of contributing



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cargo received in the territory of a State Party by any person in a calendar year when aggregated with the quantities of the same type of cargo received in the same State Party in that year by any associated person or persons exceeds the limit specified in the respective subparagraphs, such a person shall pay contributions in respect of the actual quantity received by that person notwithstanding that that quantity did not exceed the respective limit.

6. “Associated person” means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the State concerned.

## GENERAL PROVISIONS ON ANNUAL CONTRIBUTIONS

### *Article 17*

1. Annual contributions to the general account and to each separate account shall be levied only as required to make payments by the account in question.

2. Annual contributions payable pursuant to articles 18, 19 and article 21, paragraph 5 shall be determined by the Assembly and shall be calculated in accordance with those articles on the basis of the units of contributing cargo received or, in respect of cargoes referred to in article 19, paragraph 1(b), discharged during the preceding calendar year or such other year as the Assembly may decide.

3. The Assembly shall decide the total amount of annual contributions to be levied to the general account and to each separate account. Following that decision the Director shall, in respect of each State Party, calculate for each person liable to pay contributions in accordance with article 18, article 19, paragraph 1 and article 21, paragraph 5, the amount of that person’s annual contribution to each account, on the basis of a fixed sum for each unit of contributing cargo reported in respect of the person during the preceding calendar year or such other year as the Assembly may decide. For the general account, the above-mentioned fixed sum per unit of contributing cargo for each sector shall be calculated pursuant to the regulations contained in Annex II to this Convention. For each separate account, the fixed sum per unit of contributing cargo referred to above shall be calculated by dividing the total annual contribution to be levied to that account by the total quantity of cargo contributing to that account.

4. The Assembly may also levy annual contributions for administrative costs and decide on the distribution of such costs between the sectors of the general account and the separate accounts.

5. The Assembly shall also decide on the distribution between the relevant accounts and sectors of amounts paid in compensation for damage caused by two or more substances which fall within different accounts or sectors, on the basis of an estimate of the extent to which each of the substances involved contributed to the damage.

## ANNUAL CONTRIBUTIONS TO THE GENERAL ACCOUNT

### *Article 18*

1. Subject to article 16, paragraph 5, annual contributions to the general account shall be made in respect of each State Party by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of aggregate quantities exceeding

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20,000 tonnes of contributing cargo, other than substances referred to in article 19, paragraph 1, which fall within the following sectors:

- (a) solid bulk materials referred to in article 1, paragraph 5(a)(vii);
- (b) substances referred to in paragraph 2; and
- (c) other substances.

2. Annual contributions shall also be payable to the general account by persons who would have been liable to pay contributions to a separate account in accordance with article 19, paragraph 1 had its operation not been postponed or suspended in accordance with article 19. Each separate account the operation of which has been postponed or suspended under article 19 shall form a separate sector within the general account.

#### ANNUAL CONTRIBUTIONS TO SEPARATE ACCOUNTS

##### *Article 19*

1. Subject to article 16, paragraph 5, annual contributions to separate accounts shall be made in respect of each State Party:

- (a) in the case of the oil account,
  - (i) by any person who has received in that State in the preceding calendar year, or such other year as the Assembly may decide, total quantities exceeding 150,000 tonnes of contributing oil as defined in article 1, paragraph 3 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, and who is or would be liable to pay contributions to the International Oil Pollution Compensation Fund in accordance with article 10 of that Convention; and
  - (ii) by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of total quantities exceeding 20,000 tonnes of other oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
- (b) in the case of the LNG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, immediately prior to its discharge, held title to an LNG cargo discharged in a port or terminal of that State;
- (c) in the case of the LPG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, was the receiver in that State of total quantities exceeding 20,000 tonnes of LPG.

2. Subject to paragraph 3, the separate accounts referred to in paragraph 1 above shall become effective at the same time as the general account.

3. The initial operation of a separate account referred to in article 16, paragraph 2 shall be postponed until such time as the quantities of contributing cargo in respect of that account during the preceding calendar year, or such other year as the Assembly may decide, exceed the following levels:

- (a) 350 million tonnes of contributing cargo in respect of the oil account;
- (b) 20 million tonnes of contributing cargo in respect of the LNG account; and

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- (c) 15 million tonnes of contributing cargo in respect of the LPG account.
4. The Assembly may suspend the operation of a separate account if:
- (a) the quantities of contributing cargo in respect of that account during the preceding calendar year fall below the respective level specified in paragraph 3; or
- (b) when six months have elapsed from the date when the contributions were due, the total unpaid contributions to that account exceed ten per cent of the most recent levy to that account in accordance with paragraph 1.
5. The Assembly may reinstate the operation of a separate account which has been suspended in accordance with paragraph 4.
6. Any person who would be liable to pay contributions to a separate account the operation of which has been postponed in accordance with paragraph 3 or suspended in accordance with paragraph 4, shall pay into the general account the contributions due by that person in respect of that separate account. For the purpose of calculating future contributions, the postponed or suspended separate account shall form a new sector in the general account and shall be subject to the HNS points system defined in Annex II.

## INITIAL CONTRIBUTIONS

### *Article 20*

1. In respect of each State Party, initial contributions shall be made of an amount which shall for each person liable to pay contributions in accordance with article 16, paragraph 5, articles 18, 19 and article 21, paragraph 5 be calculated on the basis of a fixed sum, equal for the general account and each separate account, for each unit of contributing cargo received or, in the case of LNG, discharged in that State, during the calendar year preceding that in which this Convention enters into force for that State.
2. The fixed sum and the units for the different sectors within the general account as well as for each separate account referred to in paragraph 1 shall be determined by the Assembly.
3. Initial contributions shall be paid within three months following the date on which the HNS Fund issues invoices in respect of each State Party to persons liable to pay contributions in accordance with paragraph 1.

## REPORTS

### *Article 21*

1. Each State Party shall ensure that any person liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article appears on a list to be established and kept up to date by the Director in accordance with the provisions of this article.
2. For the purposes set out in paragraph 1, each State Party shall communicate to the Director, at a time and in the manner to be prescribed in the internal regulations of the HNS Fund, the name and address of any person who in respect of the State is liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article, as well as data on the relevant

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quantities of contributing cargo for which such a person is liable to contribute in respect of the preceding calendar year.

3. For the purposes of ascertaining who are, at any given time, the persons liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article and of establishing, where applicable, the quantities of cargo to be taken into account for any such person when determining the amount of the contribution, the list shall be *prima facie* evidence of the facts stated therein.

4. Where a State Party does not fulfil its obligations to communicate to the Director the information referred to in paragraph 2 and this results in a financial loss for the HNS Fund, that State Party shall be liable to compensate the HNS Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by a State Party.

5. In respect of contributing cargo carried from one port or terminal of a State Party to another port or terminal located in the same State and discharged there, States Parties shall have the option of submitting to the HNS Fund a report with an annual aggregate quantity for each account covering all receipts of contributing cargo, including any quantities in respect of which contributions are payable pursuant to article 16, paragraph 5. The State Party shall, at the time of reporting, either:

(a) notify the HNS Fund that that State will pay the aggregate amount for each account in respect of the relevant year in one lump sum to the HNS Fund; or

(b) instruct the HNS Fund to levy the aggregate amount for each account by invoicing individual receivers or, in the case of LNG, the title holder who discharges within the jurisdiction of that State Party, for the amount payable by each of them. These persons shall be identified in accordance with the national law of the State concerned.

## NON-PAYMENT OF CONTRIBUTIONS

### *Article 22*

1. The amount of any contribution due under articles 18, 19, 20 or article 21, paragraph 5 and which is in arrears shall bear interest at a rate which shall be determined in accordance with the internal regulations of the HNS Fund, provided that different rates may be fixed for different circumstances.

2. Where a person who is liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5 does not fulfil the obligations in respect of any such contribution or any part thereof and is in arrears, the Director shall take all appropriate action, including court action, against such a person on behalf of the HNS Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

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## OPTIONAL LIABILITY OF STATES PARTIES FOR THE PAYMENT OF CONTRIBUTIONS

### *Article 23*

1. Without prejudice to article 21, paragraph 5, a State Party may at the time when it deposits its instrument of ratification, acceptance, approval or accession or at any time thereafter declare that it assumes responsibility for obligations imposed by this Convention on any person liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5 in respect of hazardous and noxious substances received or discharged in the territory of that State. Such a declaration shall be made in writing and shall specify which obligations are assumed.
2. Where a declaration under paragraph 1 is made prior to the entry into force of this Convention in accordance with article 46, it shall be deposited with the Secretary-General who shall after the entry into force of this Convention communicate the declaration to the Director.
3. A declaration under paragraph 1 which is made after the entry into force of this Convention shall be deposited with the Director.
4. A declaration made in accordance with this article may be withdrawn by the relevant State giving notice thereof in writing to the Director. Such a notification shall take effect three months after the Director's receipt thereof.
5. Any State which is bound by a declaration made under this article shall, in any proceedings brought against it before a competent court in respect of any obligation specified in the declaration, waive any immunity that it would otherwise be entitled to invoke.

## ORGANIZATION AND ADMINISTRATION

### *Article 24*

The HNS Fund shall have an Assembly and a Secretariat headed by the Director.

### ASSEMBLY

### *Article 25*

The Assembly shall consist of all States Parties to this Convention.

### *Article 26*

The functions of the Assembly shall be:

- (a) to elect at each regular session its President and two Vice-Presidents who shall hold office until the next regular session;
- (b) to determine its own rules of procedure, subject to the provisions of this Convention;

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- (c) to develop, apply and keep under review internal and financial regulations relating to the aim of the HNS Fund as described in article 13, paragraph 1(a), and the related tasks of the HNS Fund listed in article 15;
- (d) to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;
- (e) to adopt the annual budget prepared in accordance with article 15(b);
- (f) to consider and approve as necessary any recommendation of the Director regarding the scope of definition of contributing cargo;
- (g) to appoint auditors and approve the accounts of the HNS Fund;
- (h) to approve settlements of claims against the HNS Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with article 14 and to determine the terms and conditions according to which provisional payments in respect of claims shall be made with a view to ensuring that victims of damage are compensated as promptly as possible;
- (i) to establish a Committee on Claims for Compensation with at least 7 and not more than 15 members and any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the States Parties are appropriately represented; the Rules of Procedure of the Assembly may be applied, *mutatis mutandis*, for the work of such subsidiary body;
- (j) to determine which States not party to this Convention, which Associate Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies;
- (k) to give instructions concerning the administration of the HNS Fund to the Director and subsidiary bodies;
- (l) to supervise the proper execution of this Convention and of its own decisions;
- (m) to review every five years the implementation of this Convention with particular reference to the performance of the system for the calculation of levies and the contribution mechanism for domestic trade; and
- (n) to perform such other functions as are allocated to it under this Convention or are otherwise necessary for the proper operation of the HNS Fund.

#### Article 27

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.
2. Extraordinary sessions of the Assembly shall be convened by the Director at the request of at least one-third of the members of the Assembly and may be convened on the Director's own initiative after consultation with the President of the Assembly. The Director shall give members at least thirty days' notice of such sessions.

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### Article 28

A majority of the members of the Assembly shall constitute a quorum for its meetings.

### SECRETARIAT

### Article 29

1. The Secretariat shall comprise the Director and such staff as the administration of the HNS Fund may require.
2. The Director shall be the legal representative of the HNS Fund.

### Article 30

1. The Director shall be the chief administrative officer of the HNS Fund.

Subject to the instructions given by the Assembly, the Director shall perform those functions which are assigned to the Director by this Convention, the internal regulations of the HNS Fund and the Assembly.

2. The Director shall in particular:

- (a) appoint the personnel required for the administration of the HNS Fund;
- (b) take all appropriate measures with a view to the proper administration of the assets of the HNS Fund;
- (c) collect the contributions due under this Convention while observing in particular the provisions of article 22, paragraph 2;
- (d) to the extent necessary to deal with claims against the HNS Fund and to carry out the other functions of the HNS Fund, employ the services of legal, financial and other experts;
- (e) take all appropriate measures for dealing with claims against the HNS Fund, within the limits and on conditions to be laid down in the internal regulations of the HNS Fund, including the final settlement of claims without the prior approval of the Assembly where these regulations so provide;
- (f) prepare and submit to the Assembly the financial statements and budget estimates for each calendar year;
- (g) prepare, in consultation with the President of the Assembly, and publish a report on the activities of the HNS Fund during the previous calendar year; and
- (h) prepare, collect and circulate the documents and information which may be required for the work of the Assembly and subsidiary bodies.

### Article 31

In the performance of their duties the Director and the staff and experts appointed by the Director shall not seek or receive instructions from any Government or from any authority external to the HNS Fund. They shall refrain from any action which might adversely reflect on their position as international officials. Each State Party on its part undertakes to respect the exclusively

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international character of the responsibilities of the Director and the staff and experts appointed by the Director, and not to seek to influence them in the discharge of their duties.

## FINANCES

### *Article 32*

1. Each State Party shall bear the salary, travel and other expenses of its own delegation to the Assembly and of its representatives on subsidiary bodies.
2. Any other expenses incurred in the operation of the HNS Fund shall be borne by the HNS Fund.

## VOTING

### *Article 33*

The following provisions shall apply to voting in the Assembly:

- (a) each member shall have one vote;
- (b) except as otherwise provided in article 34, decisions of the Assembly shall be made by a majority vote of the members present and voting;
- (c) decisions where a two-thirds majority is required shall be a two-thirds majority vote of members present; and
- (d) for the purpose of this article the phrase “members present” means “members present at the meeting at the time of the vote”, and the phrase “members present and voting” means “members present and casting an affirmative or negative vote”. Members who abstain from voting shall be considered as not voting.

### *Article 34*

The following decisions of the Assembly shall require a two-thirds majority:

- (a) a decision under article 19, paragraphs 4 or 5 to suspend or reinstate the operation of a separate account;
- (b) a decision under article 22, paragraph 2, not to take or continue action against a contributor;
- (c) the appointment of the Director under article 26(d);
- (d) the establishment of subsidiary bodies, under article 26(i), and matters relating to such establishment; and
- (e) a decision under article 51, paragraph 1, that this Convention shall continue to be in force.



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## TAX EXEMPTIONS AND CURRENCY REGULATIONS

### *Article 35*

1. The HNS Fund, its assets, income, including contributions, and other property necessary for the exercise of its functions as described in article 13, paragraph 1, shall enjoy in all States Parties exemption from all direct taxation.
2. When the HNS Fund makes substantial purchases of movable or immovable property, or of services which are necessary for the exercise of its official activities in order to achieve its aims as set out in article 13, paragraph 1, the cost of which include indirect taxes or sales taxes, the Governments of the States Parties shall take, whenever possible, appropriate measures for the remission or refund of the amount of such duties and taxes. Goods thus acquired shall not be sold against payment or given away free of charge unless it is done according to conditions approved by the Government of the State having granted or supported the remission or refund.
3. No exemption shall be accorded in the case of duties, taxes or dues which merely constitute payment for public utility services.
4. The HNS Fund shall enjoy exemption from all customs duties, taxes and other related taxes on articles imported or exported by it or on its behalf for its official use. Articles thus imported shall not be transferred either for consideration or gratis on the territory of the country into which they have been imported except on conditions agreed by the Government of that country.
5. Persons contributing to the HNS Fund as well as victims and owners receiving compensation from the HNS Fund shall be subject to the fiscal legislation of the State where they are taxable, no special exemption or other benefit being conferred on them in this respect.
6. Notwithstanding existing or future regulations concerning currency or transfers, States Parties shall authorize the transfer and payment of any contribution to the HNS Fund and of any compensation paid by the HNS Fund without any restriction.

## CONFIDENTIALITY OF INFORMATION

### *Article 36*

Information relating to individual contributors supplied for the purpose of this Convention shall not be divulged outside the HNS Fund except in so far as it may be strictly necessary to enable the HNS Fund to carry out its functions including the bringing and defending of legal proceedings.

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## CHAPTER IV

### CLAIMS AND ACTIONS

#### LIMITATION OF ACTIONS

##### *Article 37*

1. Rights to compensation under chapter II shall be extinguished unless an action is brought thereunder within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage and of the identity of the owner.
2. Rights to compensation under chapter III shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to article 39, paragraph 7, within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage.
3. In no case, however, shall an action be brought later than ten years from the date of the incident which caused the damage.
4. Where the incident consists of a series of occurrences, the ten-year period mentioned in paragraph 3 shall run from the date of the last of such occurrences.

#### JURISDICTION IN RESPECT OF ACTION AGAINST THE OWNER

##### *Article 38*

1. Where an incident has caused damage in the territory, including the territorial sea or in an area referred to in article 3(b), of one or more States Parties, or preventive measures have been taken to prevent or minimize damage in such territory including the territorial sea or in such area, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of any such States Parties.
2. Where an incident has caused damage exclusively outside the territory, including the territorial sea, of any State and either the conditions for application of this Convention set out in article 3(c) have been fulfilled or preventive measures to prevent or minimize such damage have been taken, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of:
  - (a) the State Party where the ship is registered or, in the case of an unregistered ship, the State Party whose flag the ship is entitled to fly; or
  - (b) the State Party where the owner has habitual residence or where the principal place of business of the owner is established; or
  - (c) the State Party where a fund has been constituted in accordance with article 9, paragraph 3.
3. Reasonable notice of any action taken under paragraph 1 or 2 shall be given to the defendant.
4. Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.

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5. After a fund under article 9 has been constituted by the owner or by the insurer or other person providing financial security in accordance with article 12, the courts of the State in which such fund is constituted shall have exclusive jurisdiction to determine all matters relating to the apportionment and distribution of the fund.

#### JURISDICTION IN RESPECT OF ACTION AGAINST THE HNS FUND OR TAKEN BY THE HNS FUND

##### *Article 39*

1. Subject to the subsequent provisions of this article, any action against the HNS Fund for compensation under article 14 shall be brought only before a court having jurisdiction under article 38 in respect of actions against the owner who is liable for damage caused by the relevant incident or before a court in a State Party which would have been competent if an owner had been liable.

2. In the event that the ship carrying the hazardous or noxious substances which caused the damage has not been identified, the provisions of article 38, paragraph 1, shall apply *mutatis mutandis* to actions against the HNS Fund.

3. Each State Party shall ensure that its courts have jurisdiction to entertain such actions against the HNS Fund as are referred to in paragraph 1.

4. Where an action for compensation for damage has been brought before a court against the owner or the owner's guarantor, such court shall have exclusive jurisdiction over any action against the HNS Fund for compensation under the provisions of article 14 in respect of the same damage.

5. Each State Party shall ensure that the HNS Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with this Convention before a competent court of that State against the owner or the owner's guarantor.

6. Except as otherwise provided in paragraph 7, the HNS Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.

7. Without prejudice to the provisions of paragraph 5, where an action under this Convention for compensation for damage has been brought against an owner or the owner's guarantor before a competent court in a State Party, each party to the proceedings shall be entitled under the national law of that State to notify the HNS Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seized and in such time and in such a manner that the HNS Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgement rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgement was given, become binding upon the HNS Fund in the sense that the facts and findings in that judgement may not be disputed by the HNS Fund even if the HNS Fund has not actually intervened in the proceedings.

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## RECOGNITION AND ENFORCEMENT

### *Article 40*

1. Any judgement given by a court with jurisdiction in accordance with article 38, which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any State Party, except:

(a) where the judgement was obtained by fraud; or

(b) where the defendant was not given reasonable notice and a fair opportunity to present the case.

2. A judgement recognized under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.

3. Subject to any decision concerning the distribution referred to in article 14, paragraph 6, any judgement given against the HNS Fund by a court having jurisdiction in accordance with article 39, paragraphs 1 and 3 shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognized and enforceable in each State Party.

## SUBROGATION AND RECOURSE

### *Article 41*

1. The HNS Fund shall, in respect of any amount of compensation for damage paid by the HNS Fund in accordance with article 14, paragraph 1, acquire by subrogation the rights that the person so compensated may enjoy against the owner or the owner's guarantor.

2. Nothing in this Convention shall prejudice any rights of recourse or subrogation of the HNS Fund against any person, including persons referred to in article 7, paragraph 2(d), other than those referred to in the previous paragraph, in so far as they can limit their liability. In any event the right of the HNS Fund to subrogation against such persons shall not be less favourable than that of an insurer of the person to whom compensation has been paid.

3. Without prejudice to any other rights of subrogation or recourse against the HNS Fund which may exist, a State Party or agency thereof which has paid compensation for damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

## SUPERSESSION CLAUSE

### *Article 42*

This Convention shall supersede any convention in force or open for signature, ratification or accession at the date on which this Convention is opened for signature, but only to the extent

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that such convention would be in conflict with it; however, nothing in this article shall affect the obligations of States Parties to States not party to this Convention arising under such convention.

## CHAPTER V

### TRANSITIONAL PROVISIONS

#### INFORMATION ON CONTRIBUTING CARGO

##### *Article 43*

When depositing an instrument referred to in article 45, paragraph 3, and annually thereafter until this Convention enters into force for a State, that State shall submit to the Secretary-General data on the relevant quantities of contributing cargo received or, in the case of LNG, discharged in that State during the preceding calendar year in respect of the general account and each separate account.

#### FIRST SESSION OF THE ASSEMBLY

##### *Article 44*

The Secretary-General shall convene the first session of the Assembly. This session shall take place as soon as possible after the entry into force of this Convention and, in any case, not more than thirty days after such entry into force.

## CHAPTER VI

### FINAL CLAUSES

#### SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

##### *Article 45*

1. This Convention shall be open for signature at the Headquarters of the Organization from 1 October 1996 to 30 September 1997 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Convention by:
  - (a) signature without reservation as to ratification, acceptance or approval; or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (c) accession.

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3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

#### ENTRY INTO FORCE

##### *Article 46*

1. This Convention shall enter into force eighteen months after the date on which the following conditions are fulfilled:

(a) at least twelve States, including four States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it, and

(b) the Secretary-General has received information in accordance with article 43 that those persons in such States who would be liable to contribute pursuant to article 18, paragraphs 1(a) and (c) have received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo contributing to the general account.

2. For a State which expresses its consent to be bound by this Convention after the conditions for entry into force have been met, such consent shall take effect three months after the date of expression of such consent, or on the date on which this Convention enters into force in accordance with paragraph 1, whichever is the later.

#### REVISION AND AMENDMENT

##### *Article 47*

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of six States Parties or one-third of the States Parties, whichever is the higher figure.

3. Any consent to be bound by this Convention expressed after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

#### AMENDMENT OF LIMITS

##### *Article 48*

1. Without prejudice to the provisions of article 47, the special procedure in this article shall apply solely for the purposes of amending the limits set out in article 9, paragraph 1 and article 14, paragraph 5.

2. Upon the request of at least one half, but in no case less than six, of the States Parties, any proposal to amend the limits specified in article 9, paragraph 1, and article 14, paragraph 5, shall

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be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.

3. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization (the Legal Committee) for consideration at a date at least six months after the date of its circulation.

4. All Contracting States, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

5. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided in paragraph 4, on condition that at least one half of the Contracting States shall be present at the time of voting.

6. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits established in article 9, paragraph 1, and those in article 14, paragraph 5.

7.

(a) No amendment of the limits under this article may be considered less than five years from the date this Convention was opened for signature nor less than five years from the date of entry into force of a previous amendment under this article.

(b) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention increased by six per cent per year calculated on a compound basis from the date on which this Convention was opened for signature.

(c) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention multiplied by three.

8. Any amendment adopted in accordance with paragraph 5 shall be notified by the Organization to all Contracting States

The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period no less than one-fourth of the States which were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.

9. An amendment deemed to have been accepted in accordance with paragraph 8 shall enter into force eighteen months after its acceptance.

10. All Contracting States shall be bound by the amendment, unless they denounce this Convention in accordance with article 49, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

11. When an amendment has been adopted but the eighteen month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 8. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Convention enters into force for that State, if later.

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#### Article 49

1. This Convention may be denounced by any State Party at any time after the date on which it enters into force for that State Party.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
3. Denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.
4. Notwithstanding a denunciation by a State Party pursuant to this article, any provisions of this Convention relating to obligations to make contributions under articles 18, 19 or article 21, paragraph 5 in respect of such payments of compensation as the Assembly may decide relating to an incident which occurs before the denunciation takes effect shall continue to apply.

### EXTRAORDINARY SESSIONS OF THE ASSEMBLY

#### Article 50

1. Any State Party may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions from the remaining States Parties, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not less than sixty days after receipt of the request.
2. The Director may take the initiative to convene an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if the Director considers that such denunciation will result in a significant increase in the level of contributions from the remaining States Parties.
3. If the Assembly, at an extraordinary session, convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions from the remaining States Parties, any such State may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Convention with effect from the same date.

### CESSATION

#### Article 51

1. This Convention shall cease to be in force:
  - (a) on the date when the number of States Parties falls below 6; or
  - (b) twelve months after the date on which data concerning a previous calendar year were to be communicated to the Director in accordance with article 21, if the data shows that the total quantity of contributing cargo to the general account in accordance with article 18, paragraphs 1(a) and (c) received in the States Parties in that preceding calendar year was less than 30 million tonnes.



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Notwithstanding (b), if the total quantity of contributing cargo to the general account in accordance with article 18, paragraphs 1(a) and (c) received in the States Parties in the preceding calendar year was less than 30 million tonnes but more than 25 million tonnes, the Assembly may, if it considers that this was due to exceptional circumstances and is not likely to be repeated, decide before the expiry of the above-mentioned twelve month period that the Convention shall continue to be in force. The Assembly may not, however, take such a decision in more than two subsequent years.

2. States which are bound by this Convention on the day before the date it ceases to be in force shall enable the HNS Fund to exercise its functions as described under article 52 and shall, for that purpose only, remain bound by this Convention.

## WINDING UP OF THE HNS FUND

### *Article 52*

1. If this Convention ceases to be in force, the HNS Fund shall nevertheless:
  - (a) meet its obligations in respect of any incident occurring before this Convention ceased to be in force; and
  - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under (a), including expenses for the administration of the HNS Fund necessary for this purpose.
2. The Assembly shall take all appropriate measures to complete the winding up of the HNS Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the HNS Fund.
3. For the purposes of this article the HNS Fund shall remain a legal person.

## DEPOSITARY

### *Article 53*

1. This Convention and any amendment adopted under article 48 shall be deposited with the Secretary-General.
2. The Secretary-General shall:
  - (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
    - (ii) the date of entry into force of this Convention;
    - (iii) any proposal to amend the limits on the amounts of compensation which has been made in accordance with article 48, paragraph 2;
    - (iv) any amendment which has been adopted in accordance with article 48, paragraph 5;

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(v) any amendment deemed to have been accepted under article 48, paragraph 8, together with the date on which that amendment shall enter into force in accordance with paragraphs 9 and 10 of that article;

(vi) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect; and

(vii) any communication called for by any article in this Convention; and

(b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

## LANGUAGES

### *Article 54*

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.]

## SCHEDULE 6

Section 183.

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

## PART I

### <sup>F328</sup>TEXT OF CONVENTION

#### **Textual Amendments**

**F328** Sch. 6 Pt. 1 substituted (28.5.2014) by [The Merchant Shipping \(Convention Relating to the Carriage of Passengers and their Luggage by Sea\) Order 2014 \(S.I. 2014/1361\)](#), art. 1(1), **Sch.** (with arts. 3, 5)

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## “Part I

### Text of the convention

#### ARTICLE 1

##### Definitions

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

- 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 that person 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;
  - (c) "carrier who actually performs the whole or a part of the carriage" means the performing carrier, or, in so far as the carrier actually performs the carriage, the carrier;
- 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;

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- 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 this 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 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 on shore 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;
- 10 "Organization" means the International Maritime Organization.
- 11 "Secretary-General" means the Secretary-General of the Organization.

#### ARTICLE 1 bis

##### Annex

The annex to this Convention shall constitute an integral part of the Convention.

#### ARTICLE 2

##### 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.

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- 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

#### Liability of the carrier

- 1 For the loss suffered as a result of the death of or personal injury to a passenger caused by a shipping incident, the carrier shall be liable to the extent that such loss in respect of that passenger on each distinct occasion does not exceed 250,000 units of account, unless the carrier proves that the incident:
- (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
  - (b) was wholly caused by an act or omission done with the intent to cause the incident by a third party.

If and to the extent that the loss exceeds the above limit, the carrier shall be further liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.

- 2 For the loss suffered as a result of the death of or personal injury to a passenger not caused by a shipping incident, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier. The burden of proving fault or neglect shall lie with the claimant.
- 3 For the loss suffered as a result of the loss of or damage to cabin luggage, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier. The fault or neglect of the carrier shall be presumed for loss caused by a shipping incident.
- 4 For the loss suffered as a result of the loss of or damage to luggage other than cabin luggage, the carrier shall be liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.
- 5 For the purposes of this article:
- (a) "shipping incident" means shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship;
  - (b) "fault or neglect of the carrier" includes the fault or neglect of the servants of the carrier, acting within the scope of their employment;
  - (c) "defect in the ship" means any malfunction, failure or non-compliance with applicable safety regulations in respect of any part of the ship or its equipment when used for the escape, evacuation, embarkation and disembarkation of passengers, or when used for the propulsion, steering, safe navigation, mooring, anchoring, arriving at or leaving berth or anchorage, or damage control after flooding; or when used for the launching of life saving appliances; and

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(d) “loss” shall not include punitive or exemplary damages.

- 6 The liability of the carrier under this Article only relates to loss arising from incidents that occurred in the course of the carriage. The burden of proving that the incident which caused the loss occurred in the course of the carriage, and the extent of the loss, shall lie with the claimant.
- 7 Nothing in this Convention shall prejudice any right of recourse of the carrier against any third party, or the defence of contributory negligence under Article 6 of this Convention. Nothing in this Article shall prejudice any right of limitation under Articles 7 or 8 of this Convention.
- 8 Presumptions of fault or neglect of a party or the allocation of the burden of proof to a party shall not prevent evidence in favour of that party from being considered.

#### ARTICLE 4

##### 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 4bis

##### Compulsory insurance

- 1 When passengers are carried on board a ship registered in a State Party that is licensed to carry more than twelve passengers, and this Convention applies, any carrier who actually performs the whole or a part of the carriage shall maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover liability under this Convention in respect of the death of and personal injury to passengers. The limit of the compulsory insurance or other financial security shall not be less than 250,000 units of account per passenger on each distinct occasion.

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- 2 A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This certificate shall be in the form of the model set out in the annex to this Convention and shall contain the following particulars:
- (a) name of ship, distinctive number or letters and port of registry;
  - (b) name and principal place of business of the carrier who actually performs the whole or a part of the carriage;
  - (c) IMO ship identification number;
  - (d) type and duration of security;
  - (e) name and principal place of business of insurer or other person providing financial security and, where appropriate, place of business where the insurance or other financial security is established; and
  - (f) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other financial security.
- 3
- (a) A State Party may authorize an institution or an organization recognised by it to issue the certificate. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued, and shall undertake to ensure the necessary arrangements to satisfy this obligation.
  - (b) A State Party shall notify the Secretary-General of:
    - (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognised by it;
    - (ii) the withdrawal of such authority; and
    - (iii) the date from which such authority or withdrawal of such authority takes effect.

An authority delegated shall not take effect prior to three months from the date from which notification to that effect was given to the Secretary-General.
  - (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not complied with. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.
- 4 The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into

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one of these languages, and, where the State so decides, the official language of the State may be omitted.

- 5 The certificate shall be carried on board the ship, and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.
- 6 An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or other financial security no longer satisfying the requirements of this Article.
- 7 The State of the ship's registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the certificate.
- 8 Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organizations relating to the financial standing of providers of insurance or other financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate.
- 9 Certificates issued or certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the insurance certificate is not financially capable of meeting the obligations imposed by this Convention.
- 10 Any claim for compensation covered by insurance or other financial security pursuant to this Article may be brought directly against the insurer or other person providing financial security. In such case, the amount set out in paragraph 1 applies as the limit of liability of the insurer or other person providing financial security, even if the carrier or the performing carrier is not entitled to limitation of liability. The defendant may further invoke the defences (other than the bankruptcy or winding up) which the carrier referred to in paragraph 1 would have been entitled to invoke in accordance with this Convention. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the assured, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the assured against the defendant. The defendant shall in any event have the right to require the carrier and the performing carrier to be joined in the proceedings.
- 11 Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention, and any payments made of such sums shall discharge any liability arising under this Convention to the extent of the amounts paid.
- 12 A State Party shall not permit a ship under its flag to which this Article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 15.



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- 13 Subject to the provisions of this Article, each State Party shall ensure, under its national law, that insurance or other financial security, to the extent specified in paragraph 1, is in force in respect of any ship that is licensed to carry more than twelve passengers, wherever registered, entering or leaving a port in its territory in so far as this Convention applies.
- 14 Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 13, ships are not required to carry on board or to produce the certificate required by paragraph 2 when entering or leaving ports in its territory, provided that the State Party which issues the certificate has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 13.
- 15 If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authorities of the State of the ship's registry, stating that the ship is owned by that State and that the liability is covered within the amount prescribed in accordance with paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

## ARTICLE 5

### 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 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

### 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

### Limit of liability for death and personal injury

- 1 The liability of the carrier for the death of or personal injury to a passenger under Article 3 shall in no case exceed 400,000 units of account per passenger on each distinct occasion. 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 A State Party may regulate by specific provisions of national law the limit of liability prescribed in paragraph 1, provided that the national limit of liability, if any, is not lower

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than that prescribed in paragraph 1. A State Party, which makes use of the option provided for in this paragraph, shall inform the Secretary-General of the limit of liability adopted or of the fact that there is none.

## ARTICLE 8

### Limit of liability for loss of or damage to luggage and vehicles

- 1 The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 2,250 units of account 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 12,700 units of account 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 shall in no case exceed 3,375 units of account 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 330 units of account in the case of damage to a vehicle and not exceeding 149 units of account 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

### Unit of Account and conversion

- 1 The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Article 3, paragraph 1, Article 4bis, paragraph 1, Article 7, paragraph 1, and Article 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 by reference to the Special Drawing Right on the date of the judgment or the date agreed upon by the parties. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State Party.
- 2 Nevertheless, a State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the Unit of Account referred to in paragraph 1 shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

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- 3 The calculation mentioned in the last sentence of paragraph 1, and the conversion mentioned in paragraph 2 shall be made in such a manner as to express in the national currency of the States Parties, as far as possible, the same real value for the amounts in Article 3, paragraph 1, Article 4bis, paragraph 1, Article 7, paragraph 1, and Article 8 as would result from the application of the first three sentences of paragraph 1. States shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 1, or the result of the conversion in paragraph 2, as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

#### ARTICLE 10

##### 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

##### 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

##### 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.
- 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.

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### ARTICLE 13

#### 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

#### 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

#### 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;
  - (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

#### 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.

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- 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 for suspension and interruption of limitation periods, but in no case shall an action under this Convention be brought after the expiration of any one of the following periods of time:
  - (a) A period of five years beginning with the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later; or, if earlier
  - (b) a period of three years beginning with the date when the claimant knew or ought reasonably to have known of the injury, loss or damage caused by the incident.
- 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.

#### ARTICLE 17

##### Competent jurisdiction

- 1 An action arising under Articles 3 and 4 of 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, and subject to the domestic law of each State Party governing proper venue within those States with multiple possible forums:
  - (a) the Court of the State of permanent residence or principal place of business of the defendant, or
  - (b) the Court of the State of departure or that of the destination according to the contract of carriage, or
  - (c) the 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) the 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 Actions under article 4bis of this Convention shall, at the option of the claimant, be brought before one of the courts where action could be brought against the carrier or performing carrier according to paragraph 1.

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- 3 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 17bis**

##### **Recognition and enforcement**

- 1 Any judgment given by a court with jurisdiction in accordance with Article 17 which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognised in any State Party, except
- (a) where the judgment was obtained by fraud; or
  - (b) where the defendant was not given reasonable notice and a fair opportunity to present his or her case.
- 2 A judgment recognised under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.
- 3 A State Party to this Protocol may apply other rules for the recognition and enforcement of judgments, provided that their effect is to ensure that judgments are recognised and enforced at least to the same extent as under paragraphs 1 and 2.

#### **ARTICLE 18**

##### **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 the passenger's luggage, purporting to relieve any person liable under this Convention of liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Convention except as provided in Article 8, paragraph 4, and any such provision purporting to shift the burden of proof which rests on the carrier or performing carrier, or having the effect of restricting the options specified in Article 17, paragraphs 1 or 2, 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**

##### **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

### 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 any amendment or Protocol thereto which is in force; 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 or any amendment or Protocol thereto which is in force.

## ARTICLE 21

### Commercial carriage by public authorities

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

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**ANNEX**

**CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY  
 IN RESPECT OF LIABILITY FOR THE DEATH OF AND PERSONAL INJURY TO  
 PASSENGERS**

Issued in accordance with the provisions of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002

Name of Ship	Distinctive number or letters	IMO Ship Identification Number	Port of Registry	Name and full address of the principal place of business of the carrier who actually performs the carriage.

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002.

Type of Security.....

Duration of Security .....

Name and address of the insurer(s) and/or guarantor(s)

Name .....

Address .....

.....

This certificate is valid until .....

Issued or certified by the Government of .....

.....

(Full designation of the State)

OR

The following text should be used when a State Party avails itself of Article 4bis, paragraph 3:

The present certificate is issued under the authority of the Government of .....  
 (full designation of the State) by ..... (name of institution or organization)

At ..... On .....  
 (Place) (Date)

.....  
 (Signature and Title of issuing or certifying official)



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**Explanatory Notes:**

- 1 If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.
- 2 If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
- 3 If security is furnished in several forms, these should be enumerated.
- 4 The entry "Duration of Security" must stipulate the date on which such security takes effect.
- 5 The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated."

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## PART II

### 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>M81</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>M82</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948.

#### **Marginal Citations**

**M81** 1945 c. 28.

**M82** 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 [<sup>F329</sup>400,000] units of account).

#### **Textual Amendments**

**F329** Word in Sch. 6 Pt. 2 para. 4 substituted (28.5.2014) by [The Merchant Shipping \(Convention Relating to the Carriage of Passengers and their Luggage by Sea\) Order 2014 \(S.I. 2014/1361\)](#), arts. 1(1), **2(2)** (with arts. 3, 5)

- 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 subparagraph (1) above 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.

- 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.

- [<sup>F330</sup>7 Article 16 shall apply to arbitral proceedings as it applies to an action; and, as respects England and Wales and Northern Ireland, the provisions of section 14 of the Arbitration Act 1996 apply to determine for the purposes of that Article when an arbitration is commenced.]

#### Textual Amendments

**F330** Sch. 6 Pt. II para. 7 substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 61**; S.I. 1996/3146, **art. 3** (with **Sch. 2**)

- 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 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.

- [<sup>F331</sup>9A. The provisions of the Convention in Part I of this Schedule have effect subject to the reservation made by the United Kingdom (see the reservation set out in the Annex II to Regulation (EC) No 392/2009 of 23 April 2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents).]

#### Textual Amendments

**F331** Sch. 6 Pt. 2 para. 9A inserted (28.5.2014) by [The Merchant Shipping \(Convention Relating to the Carriage of Passengers and their Luggage by Sea\) Order 2014](#) (S.I. 2014/1361), arts. 1(1), **2(3)** (with arts. 3, 5)

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- 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 level 4 on the standard scale or not exceeding a lesser amount.

*Application of ss. 185 and 186 of this Act*

- 12 It is hereby declared that nothing in the Convention affects the operation of section 185 of this Act (which limits a shipowner's liability in certain cases of loss of life, injury or damage).
- 13 Nothing in section 186 of this Act (which among other things limits 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.

SCHEDULE 7

Section 185.

CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976

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

**C215** Sch. 7 extended (with modifications) to Anguilla, British Antarctic Territory, British Indian Ocean Territory, South Georgia and South Sandwich Islands (30.11.1997) by 1997/2579, art. 2, Schs. 1, 2

**PART I**

TEXT OF CONVENTION

**CHAPTER I.**

THE RIGHT OF LIMITATION

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## 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 connection 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.
- 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 connection 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 connection 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 minimise loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

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*Changes to legislation:* Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 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:

[<sup>F332</sup>(a) claims for salvage , including, if applicable, any claim form or special compensation under Article 14 of the International Convention on Salvage 1989 as amended , or contributed in general average;]

(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.

#### **Textual Amendments**

**F332** Sch. 7 Pt. I Ch. I Article 3(a) substituted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 3, 8, **Sch.**

### 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.

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## 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

## ARTICLE 6

### *The general limits*

[<sup>F333</sup>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) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 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 2,001 to 30,000 tons, 800 Units of Account;
    - for each ton from 30,001 to 70,000 tons, 600 Units of Account; and
    - for each ton in excess of 70,000 tons, 400 Units of Account,
- (b) in respect of any other claims,
  - (i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 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 2,001 to 30,000 tons, 400 Units of Account;
    - for each ton from 30,001 to 70,000 tons, 300 Units of Account; and
    - for each ton in excess of 70,000 tons, 200 Units of Account.]

#### Textual Amendments

**F333** Sch. 7 Pt. I Ch. II Art. 6 para. 1 substituted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 4(a), 8, **Sch.**

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).

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- 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*

- [<sup>F334</sup>] In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate.]

#### **Textual Amendments**

**F334** Sch. 7 Pt. I Ch. II Art. 7 para. 1 substituted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 4(b), 8, **Sch.**

- 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*

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 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



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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

## ARTICLE 11

### *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.

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## 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

### *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.

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## 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

## ARTICLE 15

[<sup>F335</sup>2 A State Party may regulate by specific provisions of national law the system of limitation of liability to be applied to vessels which are:

- (a) according to the law of that State, ships intended for navigation on inland waterways;
- (b) ships of less than 300 tons.

A State Party which makes use of the option provided for in this paragraph shall inform the depositary of the limits of liability adopted in its national legislation or of the fact that there are none.

*3bis.* Notwithstanding the limit of liability prescribed in paragraph 1 of article 7, a State Party may regulate by specific provisions of national law the system of liability to be applied to claims for loss of life or personal injury to passengers of a ship, provided that the limit of liability is not lower than that prescribed in paragraph 1 of article 7. A State Party which makes use of the option provided for in this paragraph shall inform the Secretary-General of the limits of liability adopted or of the fact that there are none.]

### Textual Amendments

**F335** Sch. 7 Pt. I Art. 15 para. 2 inserted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258](#), arts. 5, 8, [Sch.](#)

## [<sup>F336</sup>ARTICLE 18

### *RESERVATIONS]*

### Textual Amendments

**F336** Sch. 7 Pt. I Art. 18 inserted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258](#), arts. 6, 8, [Sch.](#)

<sup>F337</sup>1 Any State may, at the time of signature, ratification, acceptance, approval or accession, or at any time thereafter, reserve the right:

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- (a) to exclude the application of article 2, paragraphs 1(d) and (e);
- (b) to exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 <sup>X1</sup> or of any amendment or Protocol thereto.

No other reservations shall be admissible to the substantive provisions of this Convention.

**Editorial Information**

**X1** The text of the Convention is set out in Schedule 5A to this Act.

**Textual Amendments**

**F337** Sch. 7 Pt. I Art. 18 inserted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258](#), arts. 6, 8, [Sch.](#)

**PART II**

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 <sup>[F338]</sup> Subject to paragraph 6 below, 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.

**Textual Amendments**

**F338** Words in Sch. 7 Pt. II para. 2 inserted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258](#), arts. 7(a), 8, [Sch.](#)

<sup>F339</sup> <sup>[F340]</sup> 2A] . . . . .

**Textual Amendments**

**F339** Sch. 7 para. 2A omitted (13.5.2004) by virtue of [The Merchant Shipping \(Convention on Limitation of Liability for Maritime Claims\) \(Amendment\) Order 2004 \(S.I. 2004/1273\)](#), arts. 1, 2

**F340** Sch. 7 Pt. II para. 2A inserted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258](#), arts. 7(b), 8, [Sch.](#)

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### *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.

### *Claims excluded from limitation*

- 4 <sup>F341</sup>[(1) Claims for Damages within the meaning of the international Convention on Liability and compensation for Damage in connection with the carriage of Hazardous and Noxious Substances by Sea 1996(b), or any amendment of or Protocol to the Convention, which arise from occurrences which take place after the coming into force of the first Order in Council made by Her Majesty under section 182B of this Act shall be excluded from the convention.]
- (2) The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 153 of this Act.
- (3) 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>M83</sup>Nuclear Installations Act 1965.

#### **Textual Amendments**

**F341** Sch. 7 Pt. II para. 4(1) substituted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(C), 8, Sch.

#### **Marginal Citations**

**M83** 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 1(a)(i) referred to [<sup>F342</sup>1,000,000] Units of Account; and
- (b) paragraph 1(b)(i) referred to [<sup>F342</sup>500,000] 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.

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#### Textual Amendments

**F342** Words in s. 5(1)(a)(b) substituted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(d), 8, **Sch.**

#### *Limit for passenger claims*

- 6 <sup>F343</sup>(1) Article 7 shall not apply in respect of any sea going ship and shall have effect in respect of any ship which is not as if in paragraph 1 of that article.
- (a) after “thereof” there were inserted “in respect of each passenger,”;
  - (b) the words from “multiplied” onwards were omitted.]
- (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>M84</sup>Fatal Accidents Act 1976, the <sup>M85</sup>Fatal Accidents (Northern Ireland) Order 1977 or the <sup>F344</sup>Damages (Scotland) Act 2011].

#### Textual Amendments

**F343** Sch. 7 Pt. 2 para. 6(1)(a)(b) substituted for Sch. 7 para. 6(1) (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(e), 8, **Sch.**

**F344** Words in Sch. 7 Pt. 2 para. 6 substituted (7.7.2011) by **Damages (Scotland) Act 2011 (asp 7), s. 19(3), sch. 1 para. 6** (with ss. 17, 19(2)); S.S.I. 2011/268, **art. 3** (with art. 4)

#### Marginal Citations

**M84** 1976 c. 30.

**M85** S.I. 1977/1258 (NI 18); 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
  - (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 subparagraph (1) above 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.

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### *Constitution of fund*

- 8 (1) The Secretary of State may, 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) Any statutory instrument containing an order under sub-paragraph (1) above shall be laid before Parliament after being made.
- (3) 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 fund*

- 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 references to the High Court or, in relation to Scotland, the Court of Session.

### *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”*

- [<sup>F345</sup>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 as amended by the 1996 Protocol 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 as amended by the 1996 Protocol.]

#### **Textual Amendments**

**F345** Sch. 7 Pt. II para. 13 substituted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(f), 8, Sch.

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## SCHEDULE 8

Section 193.

## COMMISSIONERS OF NORTHERN LIGHTHOUSES

- 1 (1) The Commissioners of Northern Lighthouses shall continue to exist under that name as a body corporate constituted as follows.
- (2) The following persons holding the following offices constitute the Commissioners of Northern Lighthouses, that is to say—
- (a) the Lord Advocate and the Solicitor-General for Scotland;
  - (b) the lords provosts of Edinburgh, Glasgow and Aberdeen, and the conveners of the councils for Highland and Argyll and Bute;
  - (c) the sheriffs principal of all the sheriffdoms in Scotland;
  - (d) a person nominated by the Lieutenant Governor of the Isle of Man and appointed by the Secretary of State;
  - (e) any person elected under paragraph 2 below.
- 2 (1) The Commissioners may elect, as members of their body, the convener of any council whose area includes any part of the coasts of Scotland.
- (2) The Commissioners may elect, as members of their body, not more than five other persons; but a person shall not be elected in pursuance of this sub-paragraph 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 that body.
- 3 A person appointed by the Secretary of State under paragraph 1(2)(d) above, or a person appointed by the Commissioners under paragraph 2(2) above, shall hold office for three years, but shall be eligible for re-appointment.
- 4 (1) Any five of the Commissioners shall constitute a quorum.
- (2) The Commissioners constituting a quorum shall have power to do all such matters and things as might be done by the whole body.
- 5 In this Schedule “council” means a council constituted under section 2 of the <sup>M86</sup>Local Government etc. (Scotland) Act 1994.

**Marginal Citations**

M86 1994 c. 39.

## F346 SCHEDULE 9

**Textual Amendments**

F346 Sch. 9 repealed (17.7.1997) by 1997 c. 28, s. 29(1)(2), Sch. 6 para. 9, Sch. 7 Pt. I; S.I. 1997/1539, art. 2, Sch.



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## SCHEDULE 10

Section 210.

### LOCAL LIGHT DUES: OBJECTIONS

The modifications to which section 31 of the <sup>M87</sup>Harbours Act 1964 is subject in its application in relation to local light dues by virtue of section 210 are as follows—

- (a) references to charges shall be construed as references to local light dues;
- (b) subsection (1) shall be omitted;
- (c) in subsection (2), for the words from “a charge” to “maintaining or managing” there shall be substituted the words “ a local light due imposed under section 210 of the Merchant Shipping Act 1995 by a local lighthouse authority ”, and the words “passengers or goods” (in both places) shall be omitted;
- (d) in subsection (6)(b), the reference to subsection (2) shall be construed as referring to that subsection as modified by paragraph (c) above;
- (e) in subsection (8), for the reference to a harbour authority there shall be substituted a reference to a local lighthouse authority;
- (f) in subsection (9), for the reference to the harbour authority concerned there shall be substituted a reference to the local lighthouse authority concerned;
- (g) in subsection (10), for the words “a charge imposed at a harbour” there shall be substituted the words “ a local light due imposed by a local lighthouse authority ”; and
- (h) subsection (13) shall be omitted.

#### Marginal Citations

M87 1964 c. 40.

#### Marginal Citations

M87 1964 c. 40.

## F347 SCHEDULE 11

Section 224(1)(2).

### INTERNATIONAL CONVENTION ON SALVAGE 1989

#### Textual Amendments

F347 Sch. 11 extended (with modifications) to Jersey (22.8.1997) by S.I. 1997/1773, art. 2, Sch.

Sch. 11 extended (with modifications) to each territory as stated in Sch. 1 of the amending S.I. (30.11.1997) by S.I. 1997/2586, art. 2, Schs. 1, 2

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## PART I

### TEXT OF CONVENTION

#### CHAPTER I

##### — GENERAL PROVISIONS

#### ARTICLE 1

##### *Definitions*

For the purpose of this Convention—

- (a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.
- (b) Vessel means any ship or craft, or any structure capable of navigation.
- (c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.
- (d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.
- (e) Payment means any reward, remuneration or compensation due under this Convention.
- (f) Organisation means the International Maritime Organisation.
- (g) Secretary-General means the Secretary-General of the Organisation.

#### ARTICLE 2

##### *Application of the Convention*

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

#### ARTICLE 3

##### *Platforms and drilling units*

This Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

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#### ARTICLE 4

##### *State-owned vessels*

- 1 Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that State decides otherwise.
- 2 Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

#### ARTICLE 5

##### *Salvage operations controlled by public authorities*

- 1 This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.
- 2 Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.
- 3 The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

#### ARTICLE 6

##### *Salvage contracts*

- 1 This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.
- 2 The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.
- 3 Nothing in this article shall affect the application of article 7 nor duties to prevent or minimise damage to the environment.

#### ARTICLE 7

##### *Annulment and modification of contracts*

A contract or any terms thereof may be annulled or modified if—

- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or

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(b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

## CHAPTER II

### — PERFORMANCE OF SALVAGE OPERATIONS

#### ARTICLE 8

##### *Duties of the salvor and of the owner and master*

- 1 The salvor shall owe a duty to the owner of the vessel or other property in danger—
  - (a) to carry out the salvage operations with due care;
  - (b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimise damage to the environment;
  - (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
  - (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.
- 2 The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor—
  - (a) to co-operate fully with him during the course of the salvage operations;
  - (b) in so doing, to exercise due care to prevent or minimise damage to the environment; and
  - (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

#### ARTICLE 9

##### *Rights of coastal States*

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognised principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

#### ARTICLE 10

##### *Duty to render assistance*

- 1 Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.

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- 2 The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.
- 3 The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

## ARTICLE 11

### *Co-operation*

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

## CHAPTER III

### — RIGHTS OF SALVORS

## ARTICLE 12

### *Conditions for reward*

- 1 Salvage operations which have had a useful result give right to a reward.
- 2 Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.
- 3 This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

## ARTICLE 13

### *Criteria for fixing the reward*

- 1 The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below—
  - (a) the salvaged value of the vessel and other property;
  - (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
  - (c) the measure of success obtained by the salvor;
  - (d) the nature and degree of the danger;
  - (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
  - (f) the time used and expenses and losses incurred by the salvors;
  - (g) the risk of liability and other risks run by the salvors or their equipment;

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- (h) the promptness of the services rendered;
  - (i) the availability and use of vessels or other equipment intended for salvage operations;
  - (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.
- 2 Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.
- 3 The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

#### ARTICLE 14

##### *Special compensation*

- 1 If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.
- 2 If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30 per cent. of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100 per cent. of the expenses incurred by the salvor.
- 3 Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).
- 4 The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.
- 5 If the salvor has been negligent and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.
- 6 Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

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## ARTICLE 15

### *Apportionment between salvors*

- 1 The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.
- 2 The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

## ARTICLE 16

### *Salvage of persons*

- 1 No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.
- 2 A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimising damage to the environment.

## ARTICLE 17

### *Services rendered under existing contracts*

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

## ARTICLE 18

### *The effect of salvor's misconduct*

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

## ARTICLE 19

### *Prohibition of salvage operations*

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

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## CHAPTER IV

### — CLAIMS AND ACTIONS

#### ARTICLE 20

##### *Maritime lien*

- 1 Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.
- 2 The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

#### ARTICLE 21

##### *Duty to provide security*

- 1 Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.
- 2 Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.
- 3 The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

#### ARTICLE 22

##### *Interim payment*

- 1 The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.
- 2 In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

#### ARTICLE 23

##### *Limitation of actions*

- 1 Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years.



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The limitation period commences on the day on which the salvage operations are terminated.

- 2 The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.
- 3 An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

## ARTICLE 24

### *Interest*

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

## ARTICLE 25

### *State-owned cargoes*

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings *in rem* against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

## ARTICLE 26

### *Humanitarian cargoes*

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

## ARTICLE 27

### *Publication of arbitral awards*

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

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## PART II

### PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

#### *Interpretation*

- 1 In this Part of this Schedule “the Convention” means the Convention as set out in Part I of this Schedule and any reference to a numbered article is a reference to the article of the Convention which is so numbered.

#### *Claims excluded from Convention*

- 2 (1) The provisions of the Convention do not apply—
- (a) to a salvage operation which takes place in inland waters of the United Kingdom and in which all the vessels involved are of inland navigation; and
  - (b) to a salvage operation which takes place in inland waters of the United Kingdom and in which no vessel is involved.
- (2) In this paragraph “inland waters” does not include any waters within the ebb and flow of the tide at ordinary spring tides or the waters of any dock which is directly or (by means of one or more other docks) indirectly, connected with such waters.

#### *Assistance to persons in danger at sea*

- 3 (1) The master of a vessel who fails to comply with the duty imposed on him by article 10, paragraph 1 commits an offence and shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (2) Compliance by the master of a vessel with that duty shall not affect his right or the right of any other person to a payment under the Convention or under any contract.

#### *The reward and special compensation: the common understanding*

- 4 In fixing a reward under article 13 and assessing special compensation under article 14 the court or arbitrator (or, in Scotland, arbiter) is under no duty to fix a reward under article 13 up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under article 14.

#### *Recourse for life salvage payment*

- 5 (1) This paragraph applies where—
- (a) services are rendered wholly or in part in United Kingdom waters in saving life from a vessel of any nationality or elsewhere in saving life from any United Kingdom ship; and
  - (b) either—
    - (i) the vessel and other property are destroyed, or
    - (ii) the sum to which the salvor is entitled under article 16, paragraph 2 is less than a reasonable amount for the services rendered in saving life.

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- (2) Where this paragraph applies, the Secretary of State may, if he thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as he thinks fit in respect of the services rendered in saving life.

*Meaning of “judicial proceedings”*

- 6 References in the Convention to judicial proceedings are references to proceedings—
- (a) in England and Wales, in the High Court or the county court;
  - (b) in Scotland, in the Court of Session or in the sheriff court;
  - (c) in Northern Ireland, in the High Court;
- and any reference to the tribunal having jurisdiction (so far as it refers to judicial proceedings) shall be construed accordingly.

*Meaning of “State Party”*

- 7 (1) 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 in respect of a specified country 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 in respect of that country.
- (2) In this paragraph “country” includes “territory”.

[<sup>F348</sup>SCHEDULE 11ZA

WRECKS CONVENTION

**Textual Amendments**

**F348** Sch. 11ZA inserted (5.2.2015 for specified purposes, 14.4.2015 in so far as not already in force) by [Wreck Removal Convention Act 2011 \(c. 8\)](#), ss. 1(4), 2(2), [Sch.](#); [S.I. 2015/133](#), arts. 2, 3

Preamble:

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the fact that wrecks, if not removed, may pose a hazard to navigation or the marine environment,

CONVINCED of the need to adopt uniform international rules and procedures to ensure the prompt and effective removal of wrecks and payment of compensation for the costs therein involved,

NOTING that many wrecks may be located in States' territory, including the territorial sea,

RECOGNIZING the benefits to be gained through uniformity in legal regimes governing responsibility and liability for removal of hazardous wrecks,

BEARING IN MIND the importance of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, and of the customary international law of the

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sea, and the consequent need to implement the present Convention in accordance with such provisions,

HAVE AGREED as follows:

### *Article 1*

#### *Definitions*

For the purposes of this Convention:

- 1 “Convention area” means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.
- 2 “Ship” means a seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources.
- 3 “Maritime casualty” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or its cargo.
- 4 “Wreck”, following upon a maritime casualty, means:
  - (a) a sunken or stranded ship; or
  - (b) any part of a sunken or stranded ship, including any object that is or has been on board such a ship; or
  - (c) any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or
  - (d) a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.
- 5 “Hazard” means any condition or threat that:
  - (a) poses a danger or impediment to navigation; or
  - (b) may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of one or more States.
- 6 “Related interests” means the interests of a coastal State directly affected or threatened by a wreck, such as:
  - (a) maritime coastal, port and estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
  - (b) tourist attractions and other economic interests of the area concerned;
  - (c) the health of the coastal population and the wellbeing of the area concerned, including conservation of marine living resources and of wildlife; and
  - (d) offshore and underwater infrastructure.
- 7 “Removal” means any form of prevention, mitigation or elimination of the hazard created by a wreck. “Remove”, “removed” and “removing” shall be construed accordingly.

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- 8 “Registered owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship at the time of the maritime casualty. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, “registered owner” shall mean such company.
- 9 “Operator of the ship” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended.
- 10 “Affected State” means the State in whose Convention area the wreck is located.
- 11 “State of the ship's registry” means, in relation to a registered ship, the State of registration of the ship and, in relation to an unregistered ship, the State whose flag the ship is entitled to fly.
- 12 “Organization” means the International Maritime Organization.
- 13 “Secretary-General” means the Secretary-General of the Organization.

## ***Article 2***

### ***Objectives and general principles***

- 1 A State Party may take measures in accordance with this Convention in relation to the removal of a wreck which poses a hazard in the Convention area.
- 2 Measures taken by the Affected State in accordance with paragraph 1 shall be proportionate to the hazard.
- 3 Such measures shall not go beyond what is reasonably necessary to remove a wreck which poses a hazard and shall cease as soon as the wreck has been removed; they shall not unnecessarily interfere with the rights and interests of other States including the State of the ship's registry, and of any person, physical or corporate, concerned.
- 4 The application of this Convention within the Convention area shall not entitle a State Party to claim or exercise sovereignty or sovereign rights over any part of the high seas.
- 5 States Parties shall endeavour to co-operate when the effects of a maritime casualty resulting in a wreck involve a State other than the Affected State.

## ***Article 3***

### ***Scope of application***

- 1 Except as otherwise provided in this Convention, this Convention shall apply to wrecks in the Convention area.
- 2 A State Party may extend the application of this Convention to wrecks located within its territory, including the territorial sea, subject to article 4, paragraph 4. In that case, it shall notify the Secretary-General accordingly, at the time of expressing its consent to be bound by this Convention or at any time thereafter. When a State Party has made a notification to apply this Convention to wrecks located within its territory, including the territorial sea, this is without prejudice to the rights and obligations of that State to take measures in relation to wrecks located in its territory,

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including the territorial sea, other than locating, marking and removing them in accordance with this Convention. The provisions of articles 10, 11 and 12 of this Convention shall not apply to any measures so taken other than those referred to in articles 7, 8 and 9 of this Convention.

3 When a State Party has made a notification under paragraph 2, the “Convention area” of the Affected State shall include the territory, including the territorial sea, of that State Party.

4 A notification made under paragraph 2 above shall take effect for that State Party, if made before entry into force of this Convention for that State Party, upon entry into force. If notification is made after entry into force of this Convention for that State Party, it shall take effect six months after its receipt by the Secretary-General.

5 A State Party that has made a notification under paragraph 2 may withdraw it at any time by means of a notification of withdrawal to the Secretary-General. Such notification of withdrawal shall take effect six months after its receipt by the Secretary-General, unless the notification specifies a later date.

#### **Article 4**

##### **Exclusions**

1 This Convention shall not apply to measures taken under the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, as amended, or the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973, as amended.

2 This Convention shall not apply to any warship or other ship owned or operated by a State and used, for the time being, only on Government non-commercial service, unless that State decides otherwise.

3 Where a State Party decides to apply this Convention to its warships or other ships as described in paragraph 2, it shall notify the Secretary-General, thereof, specifying the terms and conditions of such application.

4 (a) When a State Party has made a notification under article 3, paragraph 2, the following provisions of this Convention shall not apply in its territory, including the territorial sea:

(i) Article 2, paragraph 4;

(ii) Article 9, paragraphs 1, 5, 7, 8, 9 and 10; and

(iii) Article 15.

(b) Article 9, paragraph 4, insofar as it applies to the territory, including the territorial sea of a State Party, shall read: “ Subject to the national law of the Affected State, the registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment. ”

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## **Article 5**

### **Reporting wrecks**

- 1 A State Party shall require the master and the operator of a ship flying its flag to report to the Affected State without delay when that ship has been involved in a maritime casualty resulting in a wreck. To the extent that the reporting obligation under this article has been fulfilled either by the master or the operator of the ship, the other shall not be obliged to report.
- 2 Such reports shall provide the name and the principal place of business of the registered owner and all the relevant information necessary for the Affected State to determine whether the wreck poses a hazard in accordance with article 6, including:
  - (a) the precise location of the wreck;
  - (b) the type, size and construction of the wreck;
  - (c) the nature of the damage to, and the condition of, the wreck;
  - (d) the nature and quantity of the cargo, in particular any hazardous and noxious substances; and
  - (e) the amount and types of oil, including bunker oil and lubricating oil, on board.

## **Article 6**

### **Determination of hazard**

When determining whether a wreck poses a hazard, the following criteria should be taken into account by the Affected State:

- (a) the type, size and construction of the wreck;
- (b) depth of the water in the area;
- (c) tidal range and currents in the area;
- (d) particularly sensitive sea areas identified and, as appropriate, designated in accordance with guidelines adopted by the Organization, or a clearly defined area of the exclusive economic zone where special mandatory measures have been adopted pursuant to article 211, paragraph 6, of the United Nations Convention on the Law of the Sea, 1982;
- (e) proximity of shipping routes or established traffic lanes;
- (f) traffic density and frequency;
- (g) type of traffic;
- (h) nature and quantity of the wreck's cargo, the amount and types of oil (such as bunker oil and lubricating oil) on board the wreck and, in particular, the damage likely to result should the cargo or oil be released into the marine environment;
- (i) vulnerability of port facilities;
- (j) prevailing meteorological and hydrographical conditions;
- (k) submarine topography of the area;
- (l) height of the wreck above or below the surface of the water at lowest astronomical tide;
- (m) acoustic and magnetic profiles of the wreck;
- (n) proximity of offshore installations, pipelines, telecommunications cables and similar structures; and
- (o) any other circumstances that might necessitate the removal of the wreck.

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## **Article 7**

### **Locating wrecks**

- 1 Upon becoming aware of a wreck, the Affected State shall use all practicable means, including the good offices of States and organizations, to warn mariners and the States concerned of the nature and location of the wreck as a matter of urgency.
- 2 If the Affected State has reason to believe that a wreck poses a hazard, it shall ensure that all practicable steps are taken to establish the precise location of the wreck.

## **Article 8**

### **Marking of wrecks**

- 1 If the Affected State determines that a wreck constitutes a hazard, that State shall ensure that all reasonable steps are taken to mark the wreck.
- 2 In marking the wreck, all practicable steps shall be taken to ensure that the markings conform to the internationally accepted system of buoyage in use in the area where the wreck is located.
- 3 The Affected State shall promulgate the particulars of the marking of the wreck by use of all appropriate means, including the appropriate nautical publications.

## **Article 9**

### **Measures to facilitate the removal of wrecks**

- 1 If the Affected State determines that a wreck constitutes a hazard, that State shall immediately:
  - (a) inform the State of the ship's registry and the registered owner; and
  - (b) proceed to consult the State of the ship's registry and other States affected by the wreck regarding measures to be taken in relation to the wreck.
- 2 The registered owner shall remove a wreck determined to constitute a hazard.
- 3 When a wreck has been determined to constitute a hazard, the registered owner, or other interested party, shall provide the competent authority of the Affected State with evidence of insurance or other financial security as required by article 12.
- 4 The registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.
- 5 When the removal referred to in paragraphs 2 and 4 has commenced, the Affected State may intervene in the removal only to the extent necessary to ensure that the removal proceeds effectively in a manner that is consistent with considerations of safety and protection of the marine environment.
- 6 The Affected State shall:
  - (a) set a reasonable deadline within which the registered owner must remove the wreck, taking into account the nature of the hazard determined in accordance with article 6;



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- (b) inform the registered owner in writing of the deadline it has set and specify that, if the registered owner does not remove the wreck within that deadline, it may remove the wreck at the registered owner's expense; and
  - (c) inform the registered owner in writing that it intends to intervene immediately in circumstances where the hazard becomes particularly severe.
- 7 If the registered owner does not remove the wreck within the deadline set in accordance with paragraph 6(a), or the registered owner cannot be contacted, the Affected State may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.
- 8 In circumstances where immediate action is required and the Affected State has informed the State of the ship's registry and the registered owner accordingly, it may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.
- 9 States Parties shall take appropriate measures under their national law to ensure that their registered owners comply with paragraphs 2 and 3.
- 10 States Parties give their consent to the Affected State to act under paragraphs 4 to 8, where required.
- 11 The information referred to in this article shall be provided by the Affected State to the registered owner identified in the reports referred to in article 5, paragraph 2.

## **Article 10**

### **Liability of the owner**

- 1 Subject to article 11, the registered owner shall be liable for the costs of locating, marking and removing the wreck under articles 7, 8 and 9, respectively, unless the registered owner proves that the maritime casualty that caused the wreck:
  - (a) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character;
  - (b) was wholly caused by an act or omission done with intent to cause damage by a third party; or
  - (c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.
- 2 Nothing in this Convention shall affect the right of the registered owner to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.
- 3 No claim for the costs referred to in paragraph 1 may be made against the registered owner otherwise than in accordance with the provisions of this Convention. This is without prejudice to the rights and obligations of a State Party that has made a notification under article 3, paragraph 2, in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing in accordance with this Convention.
- 4 Nothing in this article shall prejudice any right of recourse against third parties.

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## **Article 11**

### **Exceptions to liability**

- 1 The registered owner shall not be liable under this Convention for the costs mentioned in article 10, paragraph 1 if, and to the extent that, liability for such costs would be in conflict with:
- (a) the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended;
  - (b) the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended;
  - (c) the Convention on Third Party Liability in the Field of Nuclear Energy, 1960, as amended, or the Vienna Convention on Civil Liability for Nuclear Damage, 1963, as amended; or national law governing or prohibiting limitation of liability for nuclear damage; or
  - (d) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended;
- provided that the relevant convention is applicable and in force.
- 2 To the extent that measures under this Convention are considered to be salvage under applicable national law or an international convention, such law or convention shall apply to questions of the remuneration or compensation payable to salvors to the exclusion of the rules of this Convention.

## **Article 12**

### **Compulsory insurance or other financial security**

- 1 The registered owner of a ship of 300 gross tonnage and above and flying the flag of a State Party shall be required to maintain insurance or other financial security, such as a guarantee of a bank or similar institution, to cover liability under this Convention in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases not exceeding an amount calculated in accordance with article 6(1)(b) of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.
- 2 A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship of 300 gross tonnage and above by the appropriate authority of the State of the ship's registry after determining that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in the annex to this Convention, and shall contain the following particulars:
- (a) name of the ship, distinctive number or letters and port of registry;
  - (b) gross tonnage of the ship;
  - (c) name and principal place of business of the registered owner;
  - (d) IMO ship identification number;
  - (e) type and duration of security;

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- (f) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
  - (g) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other security.
- 3
- (a) A State Party may authorize either an institution or an organization recognized by it to issue the certificate referred to in paragraph 2. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.
  - (b) A State Party shall notify the Secretary-General of:
    - (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognized by it;
    - (ii) the withdrawal of such authority; and
    - (iii) the date from which such authority or withdrawal of such authority takes effect.
- An authority delegated shall not take effect prior to three months from the date on which notification to that effect was given to the Secretary-General.
- (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not maintained. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.
- 4
- The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages and, where the State so decides, the official language(s) of the State may be omitted.
- 5
- The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authorities issuing or certifying the certificate.
- 6
- An insurance or other financial security shall not satisfy the requirements of this article if it can cease for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5 unless certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification, which results in the insurance or security no longer satisfying the requirements of this article.
- 7
- The State of the ship's registry shall, subject to the provisions of this article and having regard to any guidelines adopted by the Organization on the financial responsibility of the registered owners, determine the conditions of issue and validity of the certificate
- 8
- Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organizations relating to the financial standing of providers of insurance or financial security for the purposes of this Convention. In such cases,

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- the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate required by paragraph 2.
- 9 Certificates issued and certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the certificate is not financially capable of meeting the obligations imposed by this Convention.
- 10 Any claim for costs arising under this Convention may be brought directly against the insurer or other person providing financial security for the registered owner's liability. In such a case the defendant may invoke the defences (other than the bankruptcy or winding up of the registered owner) that the registered owner would have been entitled to invoke, including limitation of liability under any applicable national or international regime. Furthermore, even if the registered owner is not entitled to limit liability, the defendant may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained in accordance with paragraph 1. Moreover, the defendant may invoke the defence that the maritime casualty was caused by the wilful misconduct of the registered owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the registered owner against the defendant. The defendant shall in any event have the right to require the registered owner to be joined in the proceedings.
- 11 A State Party shall not permit any ship entitled to fly its flag to which this article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 14.
- 12 Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security to the extent required by paragraph 1 is in force in respect of any ship of 300 gross tonnage and above, wherever registered, entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea.
- 13 Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 12, ships are not required to carry on board or to produce the certificate required by paragraph 2, when entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea, provided that the State Party which issues the certificate required by paragraph 2 has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 12.
- 14 If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authority of the State of registry, stating that it is owned by that State and that the ship's liability is covered within the limits prescribed in paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

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### **Article 13**

#### **Time limits**

Rights to recover costs under this Convention shall be extinguished unless an action is brought hereunder within three years from the date when the hazard has been determined in accordance with this Convention. However, in no case shall an action be brought after six years from the date of the maritime casualty that resulted in the wreck. Where the maritime casualty consists of a series of occurrences, the six-year period shall run from the date of the first occurrence.

### **Article 14**

#### **Amendment provisions**

- 1 At the request of not less than one-third of States Parties, a conference shall be convened by the Organization for the purpose of revising or amending this Convention.
- 2 Any consent to be bound by this Convention, expressed after the date of entry into force of an amendment to this Convention, shall be deemed to apply to this Convention, as amended.

### **Article 15**

#### **Settlement of disputes**

- 1 Where a dispute arises between two or more States Parties regarding the interpretation or application of this Convention, they shall seek to resolve their dispute, in the first instance, through negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice.
- 2 If no settlement is possible within a reasonable period of time not exceeding twelve months after one State Party has notified another that a dispute exists between them, the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea, 1982, shall apply *mutatis mutandis*, whether or not the States party to the dispute are also States Parties to the United Nations Convention on the Law of the Sea, 1982.
- 3 Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea, 1982, pursuant to Article 287 of the latter, shall apply to the settlement of disputes under this article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.
- 4 A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, 1982, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of the United Nations Convention on the Law of the Sea, 1982, for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, 1982, such State shall be entitled to nominate conciliators and arbitrators

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to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.

- 5 A declaration made under paragraphs 3 and 4 shall be deposited with the Secretary-General, who shall transmit copies thereof to the States Parties.

### **Article 16**

#### ***Relationship to other conventions and international agreements***

Nothing in this Convention shall prejudice the rights and obligations of any State under the United Nations Convention on the Law of the Sea, 1982, and under the customary international law of the sea.

### **Article 17**

#### ***Signature, ratification, acceptance, approval and accession***

This Convention shall be open for signature at the Headquarters of the Organization from 19 November 2007 until 18 November 2008 and shall thereafter remain open for accession.

- (a) States may express their consent to be bound by this Convention by:
- (i) signature without reservation as to ratification, acceptance or approval; or
  - (ii) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (iii) accession.
- (b) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

### **Article 18**

#### ***Entry into force***

- 1 This Convention shall enter into force twelve months following the date on which ten States have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General.
- 2 For any State which ratifies, accepts, approves or accedes to this Convention after the conditions in paragraph 1 for entry into force have been met, this Convention shall enter into force three months following the date of deposit by such State of the appropriate instrument, but not before this Convention has entered into force in accordance with paragraph 1.

### **Article 19**

#### ***Denunciation***

- 1 This Convention may be denounced by a State Party at any time after the expiry of one year following the date on which this Convention comes into force for that State.
- 2 Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General.
- 3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, following its receipt by the Secretary-General.

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## Article 20

### Depositary

- 1 This Convention shall be deposited with the Secretary General.
- 2 The Secretary-General shall:
  - (a) inform all States which have signed or acceded to this Convention of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
    - (ii) the date of entry into force of this Convention;
    - (iii) the deposit of any instrument of denunciation of this Convention, together with the date of the deposit and the date on which the denunciation takes effect; and
    - (iv) other declarations and notifications received pursuant to this Convention;
  - (b) transmit certified true copies of this Convention to all States that have signed or acceded to this Convention.
- 3 As soon as this Convention enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations, for registration and publication in accordance with Article 102 of the Charter of the United Nations.

## Article 21

### Languages

The Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.”]

## [<sup>F349</sup>SCHEDULE 11A

### FUNDING OF MARITIME SERVICES]

#### Textual Amendments

**F349** Sch. 11A inserted (19.3. 1997) by 1997 c. 28, ss. 13, 31(4), Sch. 2 para. 2

### Interpretation

- 1 In this Schedule—
  - “general light dues” and “general lighthouse authority” have the same meaning as in Part VIII of this Act;
  - “prescribe” means prescribe by regulations.

### Charges in respect of maritime matters

- 2 (1) Regulations under this Schedule may make provision imposing charges for the purpose of recovering the whole or a part of the costs incurred by the Secretary of State in connection with his maritime functions.

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- (2) In sub-paragraph (1) above “maritime functions” means—
- (a) functions conferred by or under any provision of this Act apart from Part II or Part VIII,
  - (b) functions under any international agreement relating to—
    - (i) the safety of ships,
    - (ii) the prevention of pollution from ships, or
    - (iii) living and working conditions on board ships, and
  - (c) other functions relating to the promotion of the safety of ships.

*Charges relating to expenses payable out of General Lighthouse Fund*

- 3 (1) If—
- (a) any [<sup>F350</sup>EU] obligation, or
  - (b) any international agreement made between any three or more countries including the Republic of Ireland and ratified by the United Kingdom,
- requires the United Kingdom to provide for any of the costs incurred by general lighthouse authorities in respect of lighthouses, buoys and beacons to be recovered otherwise than by means of the levying of general light dues in accordance with section 205 (as it has effect on the commencement of this Schedule), regulations under this Schedule may make provision imposing charges for the purposes of recovering all or any part of the costs required to be so recovered.
- (2) In this paragraph “buoys and beacons” includes equipment which is intended as an aid to the navigation of ships and, subject to that, expressions used in this paragraph and in Part VIII of this Act have the same meaning as in that Part.

**Textual Amendments**

**F350** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), [art. 6](#) (with [art. 3\(3\)](#))

*Ships in respect of which charges may be imposed*

- 4 (1) Regulations under this Schedule may not require a charge to be paid except in respect of—
- (a) a ship which has entered a port in the United Kingdom,
  - (b) a ship which is anchored off a port in the United Kingdom, or
  - (c) a ship which is anchored within 500 metres of an installation which is in United Kingdom waters or a part of the sea specified by virtue of section 129(2)(b).
- (2) Nothing in any regulations under this Schedule shall be construed as requiring a charge to be paid in respect of a qualifying foreign ship which is exercising—
- (a) the right of innocent passage, or
  - (b) the right of transit passage through straits used for international navigation, except to the extent that international law allows such a charge to be imposed.
- (3) Subject to sub-paragraphs (1) and (2) above, the regulations may impose a charge in respect of such description of ship as may be prescribed.



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- (4) In particular—
- (a) regulations may impose a charge in respect of a ship even though no service has been provided or function exercised in the case of that ship; and
  - (b) regulations may provide that no charge is imposed in respect of a ship which does not exceed a prescribed tonnage or does not exceed a prescribed length.
- (5) For the purposes of sub-paragraph (1)(a) above, the circumstances in which a ship shall be regarded as entering a port in the United Kingdom include circumstances in which the ship enters any United Kingdom waters which are regulated or managed by a harbour authority.
- (6) In sub-paragraph (1)(c) above “installation” means an installation which—
- (a) is an offshore installation within the meaning of the <sup>M88</sup>Mineral Workings (Offshore Installations) Act 1971; or
  - (b) is to be taken to be an installation for the purposes of sections 21 to 23 of the <sup>M89</sup>Petroleum Act 1987.

#### Marginal Citations

**M88** 1971 c. 61.

**M89** 1987 c. 12.

#### *Persons by whom charges to be paid*

- 5 (1) Regulations under this Schedule may not require a charge to be paid in respect of a ship by a person who is not—
- (a) the owner of the ship;
  - (b) the person registered as the owner of the ship;
  - (c) the operator of the ship;
  - (d) the manager of the ship;
  - (e) the charterer of the ship; or
  - (f) the agent of a person mentioned in any of paragraphs (a) to (e) above.
- (2) Subject to sub-paragraph (1) above, charges imposed by the regulations shall be payable by such persons as may be prescribed.

#### *Amount of charges*

- 6 (1) Regulations under this Schedule may impose a charge—
- (a) of a fixed amount, or
  - (b) of an amount determined in accordance with the regulations,
- and may impose different charges in relation to ships of different descriptions or in different circumstances.
- (2) Regulations under this Schedule may, in particular, impose in respect of a ship a charge whose amount depends on—
- (a) whether action has been or is being taken with a view to—
    - (i) enforcing international shipping standards in the case of that ship, or
    - (ii) preventing, reducing or minimising the effects of pollution from that ship; and

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(b) if any such action has been or is being so taken, the nature of the action.

(3) Regulations under this Schedule may, in particular, impose in respect of a ship a charge whose amount depends on the tonnage or length of the ship.

#### *Powers to require information*

7 (1) Regulations under this Schedule may include provision requiring any relevant authority or any person who is or may be liable to pay charges under the regulations in respect of a ship, to provide any collecting authority with such information as the collecting authority may reasonably require for the purposes of the regulations.

(2) In this paragraph—

“collecting authority” means—

- (a) the Secretary of State,
- (b) a Departmental officer, and
- (c) a general lighthouse authority;

“relevant authority” means—

- (a) a harbour authority,
- (b) the Commissioners of Customs and Excise, and
- (c) a conservancy authority.

#### *Disclosure of information*

8 (1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall prevent a Minister of the Crown or a Northern Ireland department from disclosing—

- (a) to the Secretary of State, or
- (b) to a person appointed by the Secretary of State to collect charges under regulations made under this Schedule,

information for the purpose of enabling or assisting the Secretary of State to perform his functions under the regulations.

(2) Information obtained by any person by virtue of sub-paragraph (1) above shall not be disclosed by him to any other person except where the disclosure is made—

- (a) to a person falling within sub-paragraph (1)(a) or (b) above, or
- (b) for the purposes of any legal proceedings arising out of the regulations.

#### *Collection and recovery, etc.*

9 (1) Regulations under this Schedule may make provision—

- (a) with respect to the collection and recovery of charges; and
- (b) for charges which fall due under the regulations but which are not paid to carry interest.

(2) Regulations made under this Schedule by virtue of sub-paragraph (1) above may in particular confer on general lighthouse authorities functions relating to the collection and recovery of charges.

10 Regulations under this Schedule may make provision for appeals against decisions that charges are due in respect of ships.

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### *Distress*

- 11 Regulations under this Schedule may make provision in respect of England and Wales and Northern Ireland—
- (a) for authorising distress to be levied on any ship in respect of which the owner or master has failed to pay charges due under the regulations, and on any goods, equipment or other thing belonging to, or on board, the ship,
  - (b) for the disposal of any ship, goods, equipment or other thing on which distress is levied in accordance with the regulations, and
  - (c) for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under regulations made by virtue of paragraph (a) or (b) above.

### *Further powers in relation to General Lighthouse Fund etc*

- 12 If regulations under this Schedule make any provision by virtue of paragraph 3 above, regulations under this Schedule may also—
- (a) provide for payments which, apart from the regulations, would fall to be made out of the General Lighthouse Fund to be made by the Secretary of State out of money provided by Parliament,
  - (b) provide for amounts which, apart from the regulations, would fall to be paid into the General Lighthouse Fund (other than general light dues levied in accordance with section 205) to be paid by the Secretary of State into the Consolidated Fund,
  - (c) provide for the payment out of money provided by Parliament into the General Lighthouse Fund of amounts representing the whole or part of any charges imposed by virtue of paragraph 3, and
  - (d) make such amendments, repeals or other modifications of any of the provisions of this Act relating to the General Lighthouse Fund or general light dues as appear to the Secretary of State to be necessary or expedient in consequence of, or in connection with, the provision made by virtue of paragraph 3 above or paragraph (a), (b) or (c) above.
- 13 If regulations under this Schedule make any provision by virtue of paragraph 9(2) above, regulations under this Schedule may also provide for the making by the Secretary of State to each general lighthouse authority out of money provided by Parliament of payments in respect of expenses incurred by that authority in connection with the collection or recovery of charges.

### *Supplementary*

- 14 Regulations under this Schedule may include such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or appropriate.
- 15 Any sums received in consequence of regulations under this Schedule shall be paid into the Consolidated Fund.
- 16 (1) Regulations under this Schedule shall be made by the Secretary of State with the consent of the Treasury.
- (2) Regulations shall not be made under this Schedule unless a draft of them has been laid before, and approved by a resolution of, the House of Commons.

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## SCHEDULE 12

Section 314.

## REPEALS

**Commencement Information**

**III** Sch. 12 partly in force: Sch. 12 in force at 1.1.1996 (see s. 316(2)) except as mentioned in s. 314(1)(3), Sch. 14 para. 5

<b>Chapter or number</b>	<b>Short title</b>	<b>Extent of repeal</b>
17 & 18 Vict. c.120.	Merchant Shipping Repeal Act 1854.	Section 7.
34 & 35 Vict. c.xxi.	Lloyd's Act 1871.	Section 33.
57 & 58 Vict. c.60.	Merchant Shipping Act 1894.	Section 66. Section 76. Section 82. Section 84. Sections 287 and 288. Section 422. Section 449. Section 458. Sections 510 to 513. Sections 515 and 516. Sections 518 to 525. Section 527. Sections 530 to 537. Sections 551 to 553. Sections 555 to 557. Sections 566 to 568. Section 569(2). Section 570. Section 571. Sections 634 to 636. Sections 638 and 639. Sections 642 to 643A. Sections 647 to 656. Section 657 so far as relating to Northern Ireland.

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		Sections 658 to 660.
		Sections 662 to 662B.
		Section 664.
		Sections 666 to 669.
		Sections 676 and 677.
		Sections 679 to 681.
		Sections 683 to 687B.
		Section 688 so far as relating to Scotland.
		ction 689.
		Sections 691 to 693.
		Sections 695 to 697.
		Sections 702 and 703.
		Sections 710 to 715.
		Sections 717 and 718.
		Sections 720 to 724.
		Sections 726 to 728.
		Sections 731 and 732.
		Sections 735 and 736.
		Section 738(1) and (2).
		Section 739.
		Sections 741 to 743
		Sections 745 to 747.
		Schedule 17.
		Schedule 19.
60 & 61 Vict. c.21.	Mersey Channels Act 1897.	The whole Act.
60 & 61 Vict. c.59.	Merchant Shipping Act 1897.	The whole Act.
61 & 62 Vict. c.44.	Merchant Shipping (Mercantile Marine Fund) Act 1898.	Sections 1 and 1A.
		Section 2(3) so far as relating to the Sombrero lighthouse in the Leeward Islands.
		Sections 2A and 2B.
		Section 5(1)(2).
		Section 9.

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		In Schedule 3, the entry for the Sombrero lighthouse in the Leeward Islands.
63 & 64 Vict. c.32.	Merchant Shipping (Liability of Ship- owners and Others) Act 1900.	Sections 2 to 5.
6 Edw.7 c.48.	Merchant Shipping Act 1906.	Section 72. Sections 75 and 76. Sections 78 to 80. Sections 84 and 86.
1 & 2 Geo.5 c.57.	Maritime Conventions Act 1911.	Sections 1 to 3 and 4(2).  Sections 5 to 10.
9 & 10 Geo.5 c.62.	British Mercantile Marine Uniform Act 1919.	The whole Act.
9 & 10 Geo.5 c.92.	Aliens Restriction (Amendment) Act 1919.	Section 5.
10 & 11 Geo.5 c.2.	Merchant Shipping (Amendment) Act 1920.	The whole Act.
10 & 11 Geo.5 c.39.	Merchant Shipping (Scottish Fishing Boats) Act 1920.	The whole Act.
11 & 12 Geo.5 c.28.	Merchant Shipping Act 1921.	Sections 2 to 4.
22 & 23 Geo.5 c.4.	Statute of Westminster 1931.	Section 5
22 & 23 Geo.5 c.9.	Merchant Shipping (Safety and Load Line Conventions) Act 1932.	Section 5(2) and (3).  Section 8. Section 24. Section 62(1) and (3). Section 69. Sections 73 and 74. Schedule 1.
2 & 3 Geo.6 c.83.	Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939.	Section 6(3).
11 & 12 Geo.6 c.7.	Ceylon Independence Act 1947.	In Schedule 1, paragraph 3.
11 & 12 Geo.6 c.44	Crown Proceedings Act 1947	Sections 5 to 8. Section 30.
11 & 12 Geo.6 c.44.	Merchant Shipping Act 1948.	Section 5.

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12, 13 & 14 Geo.6 c.29.	Consular Conventions Act 1949.	Section 5(2).
12, 13 & 14 Geo.6 c.43.	Merchant Shipping (Safety Conventions) Act 1949.	Section 22.  Section 25. Section 32. Section 34. Section 35(1). Sections 36 (so far as unrepealed) and 37. In Schedule 1, paragraph 1.
14 Geo.6 c.9.	Merchant Shipping Act 1950.	Sections 7 and 8.
14 Geo.6 c.27.	Arbitration Act 1950.	In section 29, subsection (1) and in subsection (2) the words preceding “an arbitration”.
4 & 5 Eliz.2 c.46.	Administration of Justice Act 1956.	In section 47(2)(n) the words from “(including” to “way of wages)”. Section 49(1). In Part I of Schedule 1, in paragraph 1(1)(j), from the beginning to “cases” and, in paragraph 1(3), the words “sections five hundred and forty-four to five hundred and forty-six of the Merchant Shipping Act, 1894, or”.
5 & 6 Eliz.2 c.6.	Ghana Independence Act 1957.	In Schedule 1, paragraph 4.  In Schedule 2, paragraphs 7 and 8.
5 & 6 Eliz.2 c.60.	Federation of Malaya Independence Act 1957.	In Schedule 1, paragraphs 9 and 10.
8 & 9 Eliz.2 c.52.	Cyprus Act 1960.	In the Schedule, paragraph 10.
8 & 9 Eliz.2 c.55.	Nigeria Independence Act 1960.	In Schedule 1, paragraph 4.  In Schedule 2, paragraphs 7 and 8.
9 & 10 Eliz.2 c.1.	Tanganyika Independence Act 1961.	In Schedule 1, paragraph 4.

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		In Schedule 2, paragraphs 7 and 8.
9 & 10 Eliz.2 c.16	Sierre Leone Independence Act 1961.	In Schedule 2, paragraph 4.
		In Schedule 3, paragraphs 8 and 9.
10 & 11 Eliz.2 c.23.	South Africa Act 1962.	In Schedule 3, paragraph 6.
10 & 11 Eliz.2 c.30.	Northern Ireland Act 1962.	Section 25(1)(a).
10 & 11 Eliz.2 c.40.	Jamaica Independence Act 1962.	In Schedule 1, paragraph 4.
		In Schedule 2, paragraphs 7 and 8.
10 & 11 Eliz.2 c.54	Trinidad and Tobago Independence Act 1962.	In Schedule 1, paragraph 4.
		In Schedule 3, paragraphs 7 and 8.
10 & 11 Eliz.2 c.57.	Uganda Independence Act 1962.	In Schedule 1, paragraph 4.
		In Schedule 2, paragraphs 7 and 8.
1963 c.54.	Kenya Independence Act 1963.	In Schedule 1, paragraph 4.
		In Schedule 2, paragraphs 7 and 8.
1963 c.55.	Zanzibar Act 1963.	In Schedule 1, paragraph 8.
1964 c.26.	Licensing Act 1964.	Section 158.
1964 c.40.	Harbours Act 1964.	Section 29(2) and (3).
		Section 30(2).
		In section 30(3) the words from “and no charge” to the end.
		Section 35.
1964 c.46.	Malawi Independence Act 1964.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraphs 7 and 8.
1964 c.47.	Merchant Shipping Act 1964.	Section 9 so far as unrepealed.
		Section 11.
		Section 16.



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		Sections 19 and 20.
1964 c.86.	Malta Independence Act 1964.	In Schedule 1, paragraph 4(a). In Schedule 2, paragraphs 7 and 8.
1964 c.93.	Gambia Independence Act 1964.	In Schedule 1, paragraph 4(a). In Schedule 2, paragraphs 7 and 8.
1965 c.32.	Administration of Estates (Small Payments) Act 1965.	Section 6(1)(c).
1965 c.47.	Merchant Shipping Act 1965.	The whole Act so far as unrepealed.
1966 c.14.	Guyana Independence Act 1966.	In Schedule 1, paragraph 4(a). In Schedule 2, paragraphs 7 and 8.
1966 c.29.	Singapore Act 1966.	In the Schedule, paragraphs 10 and 11.
1966 c.37.	Barbados Independence Act 1966.	In Schedule 1, paragraph 4(a). In Schedule 2, paragraphs 7 and 8.
1967 c.27.	Merchant Shipping (Load Lines) Act 1967.	Sections 1 to 25. Section 27(1), (3) and (5). Sections 30 to 34. Schedules 1 and 2.
1968 c.8.	Mauritius Independence Act 1968.	In Schedule 1, paragraph 4(a). In Schedule 2, paragraphs 7 and 8.
1969 c.48.	Post Office Act 1969.	In section 3, in subsection (1) the words from “and the first reference” to “to navigation” and, in subsection (6) the words from “and section 36” to the end.
1970 c.27.	Fishing Vessels (Safety Provisions) Act 1970.	Section 1. Section 2(1). Sections 3 to 5.

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		Section 7.
		Sections 9 to 11.
1970 c.36.	Merchant Shipping Act 1970.	Sections 1 to 5.
		Sections 7 to 18.
		Section 20.
		Section 22.
		Sections 25 to 28.
		Section 30.
		Sections 32 and 33.
		Sections 39 to 41.
		Sections 43 to 54.
		Sections 56 to 64.
		Sections 67 to 72.
		Sections 74 to 83.
		Section 85.
		Section 86.
		Section 88.
		Section 91.
		Sections 95 to 101.
		Schedules 1 to 5.
1970 c.50.	Fiji Independence Act 1970.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraph 6.
1971 c.59.	Merchant Shipping (Oil Pollution) Act 1971.	The whole Act.
1971 c.60.	Prevention of Oil Pollution Act 1971.	Section 2(2A) and (2B).
		Section 5.
		Section 6(1)(a).
		Section 7.
		Section 8(2)
		Section 10.
		In section 11, in subsection (1), paragraphs (a) and (b) and the words “the owner or master of the vessel, or” and “, as the case may be,” and subsection (2).

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		Sections 12 to 17.
		Section 18(4).
		Section 19(2)(b) and (c).
		Section 19A.
		Section 20.
		Section 21.
		Section 23 so far as it relates to vessels.
		Section 24.
		Section 25(2) and (3).
		Section 27(4).
		In section 29(1) the definitions of—
		“barge”; and
		“outside the territorial waters of the United Kingdom”; and
		subsections (2), (4), (5) and (6).
		Section 30(1) and (2).
1972 c.5 (N.I.).	Water Act (Northern Ireland) 1972.	Section 32(3).
1972 c.11.	Superannuation Act 1972.	Section 17.
1973 c.27.	Bahamas Independence Act 1973.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraph 5.
1973 c.49.	Bangladesh Act 1973.	In the Schedule, paragraph 6.
1974 c.43.	Merchant Shipping Act 1974.	Sections 1 to 8A.
		Sections 16 to 18.
		Section 19(1) and (3) to (6).
		Section 21.
		Sections 23 and 24.
		Schedules 1 and 5.
1976 c.19.	Seychelles Act 1976.	In the Schedule, paragraph 6.
1978 c.15.	Solomon Islands Act 1978.	In the Schedule, paragraph 4.
1978 c.20.	Tuvalu Act 1978.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraph 4.

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1979 c.27.	Kiribati Act 1979.	In the Schedule, paragraph 5.
1979 c.39.	Merchant Shipping Act 1979.	Sections 14 to 39. Sections 41 to 43. Section 45. Sections 48 to 52. Schedules 3 to 7.
1980 c.2.	Papua New Guinea, Western Samoa and Nauru (Miscellaneous Provisions) Act 1980.	In the Schedule, paragraphs 4 and 5.
1980 c.16.	New Hebrides Act 1980.	In Schedule 1, paragraph 5.
1981 c.10.	Merchant Shipping Act 1981.	The whole Act.
1981 c.52.	Belize Act 1981.	In Schedule 1, paragraph 4(a).  In Schedule 2, paragraph 4.
1981 c.54.	[ <sup>F351</sup> Senior Courts Act 1981].	In section 153(4)(d), the words from “section 13(1)” to “1974”.  In Schedule 5, the entries relating to the Merchant Shipping (Oil Pollution) Act 1971 and the Merchant Shipping Act 1974.
S.I. 1981/226 (NI 6).	Judgments Enforcement (Northern Ireland) Order 1981.	In Schedule 2, paragraph 17.
S.I. 1981/1675 (NI 26).	Magistrates’ Courts (Northern Ireland) Order 1981.	In Part I of Schedule 6, paragraphs 18 and 19.
1982 c.16.	Civil Aviation Act 1982.	Section 97(1).
1982 c.27.	Civil Jurisdiction and Judgments Act 1982.	In section 32(4)(a) the words “section 13(3) of the Merchant Shipping (Oil Pollution) Act 1971”.
1982 c.48.	Criminal Justice Act 1982.	Section 49.  Section 81(13).  In Schedule 7, paragraph 1. In Schedule 14, paragraph 2. In Schedule 15, paragraphs 3 to 5.
1984 c.5.	Merchant Shipping Act 1984.	Sections 1 to 12.  Section 14.

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		Schedule 1.
		Schedule 2.
1984 c.28.	County Courts Act 1984.	Section 27(11).
1985 c.3.	Brunei and Maldives Act 1985.	In the Schedule, paragraph 1.
1985 c.22.	Dangerous Vessels Act 1985.	Section 4.
1986 c.2.	Australia Act 1986.	Section 4.
1986 c.6.	Prevention of Oil Pollution Act 1986.	The whole Act.
1986 c.23.	Safety at Sea Act 1986.	Sections 7 to 13. Section 15.
1986 c.64.	Public Order Act 1986.	In section 10(1), the words “and in section 515 of the Merchant Shipping Act 1894”.
S.I. 1986/1035 (NI 9).	Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.	In Part II of Schedule 1, the entries relating to the Prevention of Oil Pollution Act 1971 and the Merchant Shipping Act 1974.
1988 c.12.	Merchant Shipping Act 1988.	Section 11. Sections 26 to 35. Sections 41 to 49. Section 52. Sections 53 and 55 except for purposes of section 37. Section 57(1) and (3) to (5) In Schedule 1, paragraph 48. Schedule 4. Schedules 5 to 8.
S.I. 1989/1339 (NI 11).	Limitation (Northern Ireland) Order 1989.	In Schedule 3, paragraph 11.
1990 c.31.	Aviation and Maritime Security Act 1990.	In section 51(2), the words “section 94 of the Merchant Shipping Act 1970”. In Schedule 3, paragraph 2.
1990 c.41.	Courts and Legal Services Act 1990.	In Schedule 10, paragraph 55.
1990 c.43.	Environmental Protection Act 1990	Section 148.

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		Schedule 14 except so far as the amendments relate to offences under section 2(1) of the Prevention of Oil Pollution Act 1971.
1991 c.52.	Ports Act 1991.	Sections 31 to 34. Section 36(2)(c). In section 41, in subsection (1) the words “31 to” and “36(2)(c)” and subsection (2). Section 42(2).
S.I. 1991/1219 (NI 10).	Dangerous Vessels (Northern Ireland) Order 1991.	Article 6.
1993 c.8.	Judicial Pensions and Retirement Act 1993.	In Schedule 6, paragraph 59.
1993 c.22.	Merchant Shipping (Registration, etc.) Act 1993.	The whole Act.
1994 c.28.	Merchant Shipping (Salvage and Pollution) Act 1994.	The whole Act.
1994 c.39.	The Local Government etc. (Scotland) Act 1994.	In Schedule 13, paragraph 7.

#### Textual Amendments

**F351** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604](#), art. 2(d)

*Notes.* The repeals of sections 5 to 7, 29(2) and 30(1) of the Prevention of Oil Pollution Act 1971 do not apply so far as those provisions relate to sections 2(1) and (3) of that Act.

The repeals in the Crown Proceedings Act 1947 apply in relation to Her Majesty’s Government in Northern Ireland as they apply in relation to Her Majesty’s Government in the United Kingdom.

## SCHEDULE 13

Section 314.

### CONSEQUENTIAL AMENDMENTS

#### *General Pier and Harbour Act 1861 Amendment Act 1862 (c. 19)*

- 1 In section 21 of the General Pier and Harbour Act 1861 Amendment Act 1862, for “Merchant Shipping Act 1854” substitute “Merchant Shipping Act 1995”.

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*Sea Fisheries Act 1868 (c. 45)*

2 For section 26 of the Sea Fisheries Act 1868 substitute—

**“26 Registered fishing boats and foreign fishing boats within British waters to have official papers.**

- (1) The master of every sea-fishing boat which is registered under Part II of the Merchant Shipping Act 1995 shall (whether his boat is within British waters or not) have on board the certificate of registration issued in pursuance of registration regulations.
- (2) The master of every sea-fishing boat within British waters shall have on board official papers evidencing its nationality.
- (3) If any person, without reasonable excuse (the proof of which lies on him), contravenes subsection (1) or (2) of this section, he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale; and where a fine is imposed under this subsection on the master of a foreign sea-fishing boat the court may order the boat to be detained for a period not exceeding three months from the date of the conviction or until the fine is paid (whichever period is the shorter).
- (4) Section 8(4) of the Sea Fisheries Act 1968 (power of British sea-fishery officer to take fishing boat to nearest port and detain it there) shall apply in relation to a contravention of subsection (1) or (2) of this section as it applies in relation to such a contravention as is mentioned in that provision.
- (5) In this section—
  - “British waters” means waters within the seaward limits of the territorial sea adjacent to the United Kingdom, the Channel Islands and the Isle of Man;
  - “foreign sea-fishing boat” means a sea-fishing boat which—
    - (a) is not registered in the United Kingdom, the Channel Islands or the Isle of Man, and
    - (b) is not wholly owned by persons qualified to own British ships for the purposes of Part II of the Merchant Shipping Act 1995; and“master” includes, in relation to any sea-fishing boat, a person for the time being in command or charge of the boat.”

*Lloyd’s Act 1871 (c. xxi)*

3 In section 41 of the Lloyd’s Act 1871, for “Merchant Shipping Act 1854”, in both places where it occurs, substitute “ Merchant Shipping Act 1995 ”.

*Slave Trade Act 1873 (c. 88)*

F352<sup>4</sup> .....

**Textual Amendments**

F352 Sch. 13 para. 4 repealed (19.11.1998) by 1998 c. 43, s. 1(1), Sch. 1 Pt. VIII

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*Explosives Act 1875 (c. 17)*

F353 5

**Textual Amendments**

**F353** Sch. 13 para. 5 repealed: (26.4.2005) by The Manufacture and Storage of Explosives Regulations 2005 (S.I. 2005/1082), reg. 1(1), Sch. 5 para. 20, **Sch. 6** (with reg. 3); and (N.I.) (1.12.2006) by The Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 (S.R. 2006/425), reg. 1, Sch. 6 para. 15, **Sch. 7 Pt. 1** (with reg. 26)

*Explosive Substances Act 1883 (c. 3)*

- 6 In section 8(2) of the Explosive Substances Act 1883, for “Merchant Shipping Act 1873” substitute “ safety regulations under section 85 of the Merchant Shipping Act 1995 ”

*Submarine Telegraph Act 1885 (c. 49)*

F354 7

In the Submarine Telegraph Act 1885—

- (a) in section 5(1), for the words from the beginning to “collisions” substitute “ Safety regulations under section 85 of the Merchant Shipping Act 1995 ”; and
- (b) in section 7, for “Part X of the Merchant Shipping Act 1854 (which relates to legal procedure), and the enactments amending the same, so far as unrepealed,” substitute “ Part XII of the Merchant Shipping Act 1995 (legal proceedings) ”.

**Textual Amendments**

**F354** By **Crime and Courts Act 2013** (c. 22), s. 61(3), **Sch. 9 para. 141**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11) it is provided that (22.4.2014) **Sch. 13 para. 7(2)** and **(4)** are repealed

*Foreign Jurisdiction Act 1890 (c. 37)*

- 8 In Schedule 1 to the Foreign Jurisdiction Act 1890, at the end insert—

“1995 c. 21.	Merchant Shipping Act	Chapter II of Part VI.”
	1995.	

*Fisheries Act 1891 (c. 37)*

- 9 In section 2(1) of the Fisheries Act 1891, for “in pursuance of section fourteen of the Merchant Shipping Act 1854” substitute “ under section 256 of the Merchant Shipping Act 1995 ”, and for “sections fifteen and sixteen of that Act” substitute “ Part X of that Act ”.



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*Commissioners for Oaths Act 1891 (c. 50)*

- 10 In section 1 of the Commissioners for Oaths Act 1891, for “Merchant Shipping Acts 1854 to 1889” substitute “ Merchant Shipping Act 1995 ”.

*Seal Fisheries (North Pacific) Act 1895 (c.21)*

F355 11 .....

**Textual Amendments**

**F355** Sch. 13 para. 11 repealed (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 22 Pt. 5(C); S.I. 2010/298, art. 2, Sch. para. 12

*Seal Fisheries (North Pacific) Act 1912 (c. 10)*

F356 12 .....

**Textual Amendments**

**F356** Sch. 13 para. 12 repealed (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), Sch. 22 Pt. 5(C); S.I. 2010/298, art. 2, Sch. para. 12

*Trustee Act 1925 (c. 19)*

- 13 In section 51(6) of the Trustee Act 1925, for “Acts relating to merchant shipping” substitute “ Merchant Shipping Act 1995 ”.

*Whaling Industry (Regulations) Act 1934 (c. 49)*

- 14 In section 17(1) of the Whaling Industry (Regulations) Act 1934, in the definition of “ship”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Public Health Act 1936 (c. 49)*

- 15 In section 343(1) of the Public Health Act 1936, in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ ship ” in the Merchant Shipping Act 1995.

*Public Health (Drainage of Trade Premises) Act 1937 (c. 40)*

- 16 In section 14 of the Public Health (Drainage of Trade Premises) Act 1937, for “section seven hundred and forty-two of the Merchant Shipping Act 1894” substitute “ the Merchant Shipping Act 1995 ”.

*Superannuation (Various Services) Act 1938 (c. 13)*

- 17 In Part I of the Schedule to the Superannuation (Various Services) Act 1938, for “Merchant Shipping (Mercantile Marine Fund) Act 1898, section 1A, as inserted

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by section 17 of the Superannuation Act 1972” substitute “ Merchant Shipping Act 1995, section 214 ”.

*Compensation (Defence) Act 1939 (c. 75)*

- 18 In section 17(1) of the Compensation (Defence) Act 1939, in the definitions of “ship” and “vessel”, for “have respectively the same meaning as in the Merchant Shipping Act 1894” substitute “ have the same meaning as “ship” in the Merchant Shipping Act 1995 ”.

*Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (c. 83)*

- 19 In the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939—
- (a) in section 4(4), in the definition of “lightship”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in section 10, in the definition of “ship”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Public Health (Scotland) Act 1945 (c.15)*

- 20 In section 1(8) of the Public Health (Scotland) Act 1945, in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ ship ” in the Merchant Shipping Act 1995.

*Crown Proceedings Act 1947 (c. 44)*

- 21 In section 38(2) of the Crown Proceedings Act 1947—
- (a) in the definition of “His Majesty’s ships”, for “Merchant Shipping Acts 1894 to 1940” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in the definition of “ship”, for “meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act 1894” substitute “ the same meaning as in the Merchant Shipping Act 1995 ”.

*British Nationality Act 1948 (c. 56)*

- 22 In section 3(1) of the British Nationality Act 1948, for “Merchant Shipping Acts 1894 to 1948” substitute “ Merchant Shipping Act 1995 ”.

*Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23 (N.I.))*

- 23 In section 4(2) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948, for “section one of the Maritime Conventions Act, 1911,” substitute “ section 187 of the Merchant Shipping Act 1995 ”.

*Wireless Telegraphy Act 1949 (c. 54)*

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**Textual Amendments**

**F357** Sch. 13 para. 24 repealed (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), s. 126(2), [Sch. 9 Pt. 1](#) (with [Sch. 8 Pt. 1](#))

*Coast Protection Act 1949 (c. 74)*

- 25 In section 49(1) of the Coast Protection Act 1949, in the definitions of “conservancy authority” and “harbour authority”, for “Merchant Shipping Act 1894” substitute “Merchant Shipping Act 1995”.

*Registered Designs Act 1949 (c. 88)*

**F358** 26

**Textual Amendments**

**F358** Sch. 13 para. 26 repealed (9.12.2001) by [S.I. 2001/3949](#), reg. 9(2), [Sch. 2](#) (with transitional provisions in [regs. 10-14](#))

*Rivers (Prevention of Pollution) (Scotland) Act 1951 (c.66)*

- 27 In section 29(4) of the Rivers (Prevention of Pollution) (Scotland) Act 1951 for “Merchant Shipping Act 1894” substitute “Merchant Shipping Act 1995”.

*Post Office Act 1953 (c. 36)*

**F359** 28

**Textual Amendments**

**F359** Sch. 13 para. 28 repealed (1.1.2001) by [2000 c. 26](#), s. 127(6), [Sch. 9](#); [S.I. 2000/2957](#), art. 2(2), [Sch. 2](#)

*Administration of Justice Act 1956 (c. 46)*

- 29 (1) The Administration of the Justice Act 1956 shall be amended as follows.
- (2) In section 47—
- (a) in subsection (2)(n), the words from “(including” to “way of wages)” shall cease to have effect; and
  - (b) in subsection (8)(a) for “section 1 of the Merchant Shipping Salvage and Pollution Act 1994” substitute “section 224 of the Merchant Shipping Act 1995”.
- (3) In section 48(f)—
- (a) in the definition of “collision regulations”, for the words from “regulations” to the end substitute “safety regulations under section 85 of the Merchant Shipping Act 1995”; and
  - (b) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “Merchant Shipping Act 1995”.

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- (4) In Part I of Schedule 1—
- (a) in paragraph 1—
- (i) in sub-paragraph (1)(o), for “Merchant Shipping Acts 1894 to 1954” substitute “ Merchant Shipping Act 1995 ”; and
- (ii) in sub-paragraph (4), for “Merchant Shipping Acts 1894 to 1954” substitute “ Merchant Shipping Act 1995 ”.
- (b) in paragraph 7(1), for “five hundred and fifty-two of the Merchant Shipping Act 1894” substitute “ 226 of the Merchant Shipping Act 1995 ”; and
- (c) in paragraph 8(1)—
- (i) in the definition of “collision regulations”, for the words from “section 21” to the end substitute “ section 85 of the Merchant Shipping Act 1995 ”; and
- (ii) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Trustee Act (Northern Ireland) 1958 (c. 23 (N.I.))*

- 30 In section 51(7) of the Trustee Act (Northern Ireland) 1958, for “Acts relating to merchant shipping” substitute “ Merchant Shipping Act 1995 ”.

*Factories Act 1961 (c. 34)*

- 31 In section 176(1) of the Factories Act 1961, for the definitions of “ship”, “vessel” and “harbour” substitute “ “ship” and “vessel” have the same meaning as “ship” in the Merchant Shipping Act 1995, and “harbour” has the same meaning as in the Merchant Shipping Act 1995; ”.

*Pipe-Lines Act 1962 (c. 58)*

- 32 In section 39(4) of the Pipe-Lines Act 1962, for “section 8 of the Prevention of Oil Pollution Act 1971” substitute “ section 151 of the Merchant Shipping Act 1995 ”.

*Harbours Act 1964 (c. 40)*

- 33 In section 57(1) of the Harbours Act 1964—
- (a) in the definition of “harbour”, for “meaning assigned to it by section 742 of the Merchant Shipping Act 1894” substitute “ same meaning as in the Merchant Shipping Act 1995 ”; and
- (b) in the definition of “lighthouse”, for “meaning assigned to it by section 742 of the Merchant Shipping Act 1894” substitute “ same meaning as in the Merchant Shipping Act 1995 ”.

*Contracts of Employment and Redundancy  
Payments Act (Northern Ireland) 1965 (c. 19 (N.I.))*

- 34 In section 6(1)(c) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) (excluded categories of employees), for “Merchant Shipping (Registration, etc.) Act 1993” substitute “ Part II of the Merchant Shipping Act 1995 ”.

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*Factories Act (Northern Ireland) 1965 (c. 20 (N.I.))*

- 35 In section 176(1) of the Factories Act (Northern Ireland) 1965, for the definitions of “ship”, “vessel” and “harbour” substitute “ship” and “vessel” have the same meaning as “ship” in the Merchant Shipping Act 1995, and “harbour” has the same meaning as in the Merchant Shipping Act 1995;

*Fisheries Act (Northern Ireland) 1966 (c. 17 (N.I.))*

- 36 In the Fisheries Act (Northern Ireland) 1966—
- (a) in section 163(3), for “Merchant Shipping (Registration, etc.) Act 1993” substitute “ Part II of the Merchant Shipping Act 1995 ”; and
  - (b) in section 174(4), for “Merchant Shipping (Registration, etc.) Act 1993” substitute “ Part II of the Merchant Shipping Act 1995 ”.

*Finance Act 1966 (c. 18)*

- 37 In section 2(5)(a) of the Finance Act 1966, for “Merchant Shipping Acts 1894 to 1965” substitute “ Merchant Shipping Act 1995 ”, and for “those Acts” substitute “ that Act ”.

*Sea Fish (Conservation) Act 1967 (c. 84)*

- 38 In the Sea Fish (Conservation) Act 1967—
- [<sup>F360</sup>(a) for section 1(9), substitute—
- “(9) In this section—
- “British fishing boat” means a fishing boat which either is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995 or is owned wholly by persons qualified to own British ships for the purposes of that Part of that Act; and
- “foreign fishing boat” means any fishing boat other than a British fishing boat.”;]
- [<sup>F360</sup>(b) in section 5(8)(b), for “Merchant Shipping (Registration, etc.) Act 1993” substitute “ Merchant Shipping Act 1995 ”; and]
- (c) in section 22(1), for the definition of “British-owned” substitute—
- ““British-owned”, in relation to a fishing boat, means owned by a person who is for the purposes of Part II of the Merchant Shipping Act 1995 a person qualified to own a British ship, or owned by two or more persons any one of whom is for those purposes a person so qualified;”.

**Textual Amendments**

**F360** Sch. 13 para. 38(a)(b) repealed (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 22 Pt. 5\(A\)](#); S.I. 2009/3345, art. 2, [Sch. para. 27\(b\)](#)

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*Public Health Act (Northern Ireland) 1967 (c. 36 (N.I.))*

- 39 In section 32 of the Public Health Act (Northern Ireland) 1967, in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ “ship” in the Merchant Shipping Act 1995 ”.

*Consular Relations Act 1968 (c. 18)*

- 40 In the Consular Relations Act 1968—
- (a) in section 13(3), in paragraph (b), for “Merchant Shipping Acts 1894 to 1967” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in section 15, for “685 or section 686 of the Merchant Shipping Act 1894” substitute “ 280 or section 281 of the Merchant Shipping Act 1995 ”.

*Countryside Act 1968 (c. 41)*

- 41 In section 13(6)(a) of the Countryside Act 1968, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Hovercraft Act 1968 (c. 59)*

- 42 In section 1(1)(i) of the Hovercraft Act 1968—
- (a) in sub-paragraph (ii), for the words after “1924” substitute “ sections 185 and 186 of the Merchant Shipping Act 1995 so far as those sections relate to property on board a ship ”; and
  - (b) in sub-paragraph (iii), for the words after “hovercraft” (where it occurs last) substitute “ sections 185 and 186 of the Merchant Shipping Act 1995 ”.

*Sea Fisheries Act 1968 (c. 77)*

- 43 In the Sea Fisheries Act 1968—
- (a) in section 8(6)—
    - (i) for “418 of the Merchant Shipping Act 1894” substitute “ 85 of the Merchant Shipping Act 1995 ”;
    - (ii) for “723(1) of that Act (enforcement)” substitute “ 257 of the Merchant Shipping Act 1995 (powers to require production of ships documents) ”;
    - (iii) for “subsection” substitute “ section ”; and
    - (iv) for “723(2)” substitute “ 257 ”.
  - (b) in section 17, for “72 of the Merchant Shipping Act 1906 (wreck brought within the limits of the United Kingdom)” substitute “ 236(1) of the Merchant Shipping Act 1995 (delivery of wreck to receiver) ”, and for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”; and
  - (c) in section 19(1)—
    - (i) for the definitions of “British fishing boat” and “foreign fishing boat” substitute—
 

““British fishing boat” means a fishing boat which either is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995 or is wholly British-owned;” and

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(ii) in the appropriate places insert—

““foreign fishing boat” means any fishing boat other than a British fishing boat;” and

““wholly British-owned” means wholly owned by persons qualified to own British ships for the purposes of Part II of the Merchant Shipping Act 1995;”.

*Harbours Act (Northern Ireland) 1970 (c. 1 (N.I.))*

- 44 In Part II of Schedule 1 to the Harbours Act (Northern Ireland) 1970, in paragraph 7, for “section 2 of the Merchant Shipping (Liability of Shipowners and Others) Act 1900” substitute “ section 191 of the Merchant Shipping Act 1995 ”.

*Carriage of Goods by Sea Act 1971 (c. 19)*

- 45 (1) The Carriage of Goods by Sea Act 1971 shall be amended as follows (“the Rules” meaning the Rules set out in the Schedule to that Act).
- (2) Section 1 shall continue to have effect with the addition, after “1968”, of “ and by the Protocol signed at Brussels on 21st December 1979 ”.
- (3) After section 1 insert the following section—

**“1A Conversion of special drawing rights into sterling.**

- (1) For the purposes of Article IV of the Rules the value on a particular day of 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—
- (a) for that day; or
  - (b) if no sum has been so fixed for that day, for 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 aforesaid for a particular day; or
  - (b) that no sum has been so fixed for a particular 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 particular day,
- shall be conclusive evidence of those matters for the purposes of subsection (1) above; 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.
- (3) The Treasury may charge a reasonable fee for any certificate given in pursuance of subsection (2) above, and any fee received by the Treasury by virtue of this subsection shall be paid into the Consolidated Fund.”
- (4) For section 6(4) substitute—
- “(4) It is hereby declared that for the purposes of Article VIII of the Rules section 186 of the Merchant Shipping Act 1995 (which entirely exempts

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shipowners and others in certain circumstances for loss of, or damage to, goods) is a provision relating to limitation of liability.”

(5) Article IV of the Rules shall continue to have effect with the following amendments—

- (a) for “the equivalent of 10,000 francs” substitute “ 666.67 units of account ”;
- (b) for “30 francs per kilo” substitute “ 2 units of account per kilogramme ”; and
- (c) for paragraph 5(d) substitute—

“(d) The unit of account mentioned in this Article is the special drawing right as defined by the International Monetary Fund. The amounts mentioned in sub-paragraph (a) of this paragraph shall be converted into national currency on the basis of the value of that currency on a date to be determined by the law of the Court seized of the case.”

(6) Article 4, paragraph 5(d) of the Rules shall continue to have effect as if the date there mentioned were the date of the judgment in question.

(7) Article X of the Rules shall continue to have effect as if references to a Contracting State included references to a State that is a contracting State in respect of the Rules without the amendments made by the Protocol signed at Brussels on 21st December 1979 as well as to one that is a contracting State in respect of the Rules as so amended, and section 2 shall have effect accordingly.

*Attachment of Earnings Act 1971 (c. 32)*

46 In section 24(3) of the Attachment of Earnings Act 1971, for the words following “above” substitute—

““fishing boat” means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing or in the sea-fishing service;

“seaman” includes every person (except masters and pilots) employed or engaged in any capacity on board any ship; and

“wages” includes emoluments.”

*Industry Act 1972 (c. 63)*

47 In section 12(2)(a) of the Industry Act 1972, for “1 of the Merchant Shipping Act 1965” substitute “ 19 of the Merchant Shipping Act 1995 ”.

*Education (Work Experience) Act 1973 (c. 23)*

F361 48 .....

**Textual Amendments**

**F361** Sch. 13 para. 48 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39)



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*Fishery Limits Act 1976 (c. 86)*

- 49 In section 8 of the Fishery Limits Act 1976—
- (a) for the definition of “foreign fishing boat” substitute—
- ““foreign fishing boat” means a fishing boat which is not—
- (a) registered in the United Kingdom, the Channel Islands or the Isle of Man; or
- (b) wholly British-owned;” and
- (b) in the appropriate place insert—
- ““wholly British-owned” means wholly owned by persons qualified to own British fishing boats for the purposes of Part II of the Merchant Shipping Act 1995;”.

*Aircraft and Shipbuilding Industry Act 1977 (c. 3)*

- 50 In paragraph 5(1)(a) of Schedule 2 to the Aircraft and Shipbuilding Industry Act 1977 for “Merchant Shipping Act 1894” substitute “Merchant Shipping Act 1995”.

*Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (NI 28))*

- 51 In the Rates (Northern Ireland) Order 1977—
- (a) in Schedule 4, in the definition of “vessel”, for “meaning assigned to it by section 742 of the Merchant Shipping Act 1894” substitute “ same meaning as “ship” in the Merchant Shipping Act 1995 ”; and
- (b) in Schedule 11, in paragraph 6, for “section 731 of the Merchant Shipping Act 1894” substitute “ section 221(1) of the Merchant Shipping Act 1995 ”.

*Judicature (Northern Ireland) Act 1978 (c. 23)*

- 52 In section 46 of the Judicature (Northern Ireland) Act 1978, after subsection (3) insert the following subsection—
- “(3A) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of Northern Ireland as they apply in relation to offences under that Act or instruments under that Act.”

*Customs and Excise Management Act 1979 (c. 2)*

- 53 (1) The Customs and Excise Management Act 1979 shall be amended as follows.
- (2) In section 1(1)—
- (a) in the definition of “British ship”, for the words from “Merchant Shipping Act 1894” to the end substitute “ Merchant Shipping Act 1995 ”;
- (b) in the definition of “tons register”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.
- (3) In section 81(7), for “not being a fishing vessel registered under the Merchant Shipping (Registration, etc.) Act 1993” substitute “ not being a fishing vessel registered under Part II of the Merchant Shipping Act 1995 ”.

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*Hydrocarbon Oil Duties Act 1979 (c. 5)*

- 54 In section 19(1)(a) of the Hydrocarbon Oil Duties Act 1979, for “fishing boat register under the Merchant Shipping Act 1894” substitute “register of British ships under the Merchant Shipping Act 1995”.

*Magistrates’ Courts Act 1980 (c. 43)*

- 55 After section 3 of the Magistrates’ Courts Act 1980 insert the following section—

**“3A Offences committed on ships and abroad.**

Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act.”

*Education (Scotland) Act 1980 (c. 44)*

- 56 In section 123(2)(b) of the Education (Scotland) Act 1980, for “(when it comes into force) section 51(1) of the Merchant Shipping Act 1970” substitute “section 55(1) of the Merchant Shipping Act 1995”.

*Private Streets (Northern Ireland) Order 1980 (S.I. 1980/1086 (NI 12))*

- 57 In Article 2(2) of the Private Streets (Northern Ireland) Order 1980, in the definition of “industrial undertaking”, for “vessel as defined in section 742 of the Merchant Shipping Act 1894” substitute “ship as defined in the Merchant Shipping Act 1995”.

*Animal Health Act 1981 (c. 22)*

- 58 In the Animal Health Act 1981—
- (a) in section 49(4), for paragraph (a) substitute—
    - “(a) “master”, “owner” and “port” have the same meanings as in the Merchant Shipping Act 1995, and “vessel” has the same meaning as “ship” in the Merchant Shipping Act 1995; and”;
  - (b) in section 65—
    - (i) in subsection (3), for “692 of the Merchant Shipping Act 1894” substitute “284 of the Merchant Shipping Act 1995”; and
    - (ii) in subsection (4)(a), for “1894 Act” substitute “1995 Act”.

*[<sup>F351</sup>Senior Courts Act 1981] (c. 54)*

- 59 (1) The [<sup>F351</sup>Senior Courts Act 1981] shall be amended as follows.
- (2) In section 20—
- (a) in subsection (3)—
    - (i) in paragraph (a), for the words after “under” substitute “the Merchant Shipping Act 1995”;

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- (ii) in paragraph (c), for “Merchant Shipping Acts 1894 to 1979” substitute “ Merchant Shipping Act 1995 ”;
  - (b) in subsection (5)—
    - (i) in paragraph (a), for “the Merchant Shipping (Oil Pollution) Act 1971” substitute “ Chapter III of Part VI of the Merchant Shipping Act 1995 ”;
    - (ii) in paragraph (b), for the words following “falling on the” substitute “ International Oil Pollution Compensation Fund, or on the International Oil Compensation Fund 1984, under Chapter IV of Part VI of the Merchant Shipping Act 1995. ”;
  - (c) in subsection (6)(a), for “section 1 of the Merchant Shipping Salvage and Pollution Act 1994” substitute “ section 224 of the Merchant Shipping Act 1995 ”;
  - (d) in subsection (7), for “Merchant Shipping Acts 1894 to 1979” substitute “ Merchant Shipping Act 1995 ”.
- (3) In section 24—
- (a) in subsection (1)—
    - (i) in the definition of “collision regulations”, for the words after “means” substitute “ safety regulations under section 85 of the Merchant Shipping Act 1995 ”; and
    - (ii) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”;
  - (b) in subsection (2), in paragraph (b), for “552 of the Merchant Shipping Act 1894” substitute “ 226 of the Merchant Shipping Act 1995 ”.
- (4) After section 46 insert the following section—

**“46A Offences committed on ships and abroad.**

- (1) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act.”

*Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (NI 6))*

- 60 In the Judgments Enforcement (Northern Ireland ) Order 1981—
- (a) in Article 3(5)(f), for “section 11(1) of the Merchant Shipping Act 1970” substitute “ section 34(1) of the Merchant Shipping Act 1995 ”;
  - (b) in Article 3(6), for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”;
  - (c) in Article 97(2), for “section 11(1) of the Merchant Shipping Act 1970” substitute “ section 34(1)(a) of the Merchant Shipping Act 1995 ”.

*Clean Air (Northern Ireland) Order 1981 (S.I. 1981/158 (NI 14))*

- 61 In Article 29(6) of the Clean Air (Northern Ireland) Order 1981, in the definition of “Government ship”, for “section 80 of the Merchant Shipping Act 1906” substitute “ the Merchant Shipping Act 1995 ”.

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*Diseases of Animals (Northern Ireland) Order 1981 (S.I. 1981/1115 (NI 22))*

- 62 In Article 48(3) of the Diseases of Animals (Northern Ireland) Order 1981, for “section 692 of the Merchant Shipping Act 1894” substitute “ section 284 of the Merchant Shipping Act 1995 ”.

*Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (NI 26))*

- 63 After Article 17 of the Magistrates’ Courts Order 1981 insert the following Article—

**Offences committed on ships and abroad**

“17A Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of Northern Ireland as they apply in relation to offences under that Act or instruments under that Act.”

*Civil Aviation Act 1982 (c. 16)*

- 64 In the Civil Aviation Act 1982—
- (a) in section 75(6), for “530 to 537 of the Merchant Shipping Act 1894 or any enactment amending those sections” substitute “ 245 to 247 and sections 252 to 254 of the Merchant Shipping Act 1995 ”;
  - (b) in section 86(2), for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”; and
  - (c) in section 97(6), in the definition of “conservancy authority” and “harbour authority”, for “meanings assigned to them by section 742 of the Merchant Shipping Act 1894” substitute “ the same meaning as in the Merchant Shipping Act 1995 ”.

*Oil and Gas (Enterprise) Act 1982 (c. 23)*

F362 65 .....

**Textual Amendments**

**F362** Sch. 13 para. 65 repealed (15.2.1999) by 1998 c. 17, s. 51, **Sch. 5 Pt. I** (With Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**

*Civil Jurisdiction and Judgments Act 1982 (c. 27)*

- 66 In the Civil Jurisdiction and Judgments Act 1982—
- (a) in section 31(3), for “13(3) of the Merchant Shipping (Oil Pollution) Act 1971” substitute “ 166(4) of the Merchant Shipping Act 1995 ”; and
  - (b) in section 32(4)(a)—
    - (i) omit “section 13(3) of the Merchant Shipping (Oil Pollution) Act 1971,”;
    - (ii) for “section 6(4) of the Merchant Shipping Act 1974” substitute “ section 177(4) of the Merchant Shipping Act 1995 ”.

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*Civic Government (Scotland) Act 1982 (c. 45)*

- 67 In section 38(4)(a) of the Civic Government (Scotland) Act 1982, for “Merchant Shipping Acts 1894 to 1981” substitute “ Merchant Shipping Act 1995 ”.

*British Fishing Boats Act 1983 (c. 8)*

- 68 In section 9 of the British Fishing Boats Act 1983—
- (a) for the definition of “British fishing boat” substitute—  
““British fishing boat” means a fishing vessel which either is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995 or is wholly British-owned;”;
  - (b) in the appropriate place insert—  
““wholly British-owned” means wholly owned by persons qualified to own British ships for the purposes of Part II of the Merchant Shipping Act 1995;”.

*Public Health (Control of Disease) Act 1984 (c. 22)*

- 69 In the Public Health (Control of Disease) Act 1984—
- (a) in section 53(a) of the definition of “canal boat”, for “Merchant Shipping Acts 1894 to 1983” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in section 74, in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ “ship” in the Merchant Shipping Act 1995 ”.

*Inshore Fishing (Scotland) Act 1984 (c. 26)*

- 70 In section 9(1) of the Inshore Fishing (Scotland) Act 1984—
- (a) for the definition of “British fishing boat” substitute—  
““British fishing boat” means a fishing boat which either is registered under Part II of the Merchant Shipping Act 1995 or is wholly British-owned;”;
  - (b) in the appropriate place insert—  
““wholly British-owned” means wholly owned by persons qualified to own British ships for the purposes of Part II of the Merchant Shipping Act 1995;”.

*Road Traffic Regulation Act 1984 (c. 27)*

- 71 In section 133(1) of the Road Traffic Regulation Act 1984, for “Part IV of the Merchant Shipping Act 1894” substitute “ Part IX of the Merchant Shipping Act 1995 ”.

*County Courts Act 1984 (c. 28)*

- 72 (1) The County Courts Act 1984 shall be amended as follows.
- (2) In section 27—
- (a) in subsection (3)(a), for “section 1 of the Merchant Shipping (Salvage and Pollution) Act 1994” substitute “ section 224 of the Merchant Shipping Act 1995 ”; and

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(b) in subsection (5), for “Merchant Shipping Acts 1894 to 1983” substitute “Merchant Shipping Act 1995”.

(3) In section 30(1)(c), for the words after “ships” substitute “with safety regulations under section 85 of the Merchant Shipping Act 1995”.

(4) In section 31—

(a) in subsection (1), in the definition of “master”, for “Merchant Shipping Act 1894” substitute “Merchant Shipping Act 1995”;

(b) in subsection (2)(b), for “552 of the Merchant Shipping Act 1894” substitute “226 of the Merchant Shipping Act 1995”.

*Repatriation of Prisoners Act 1984 (c. 47)*

73 In section 5(6) of the Repatriation of Prisoners Act 1984, in the definition of “British ship”, for “Merchant Shipping Act 1894” substitute “Merchant Shipping Act 1995”.

*Dangerous Vessels Act 1985 (c. 22)*

74 In section 2(b) of the Dangerous Vessels Act 1985, for “Merchant Shipping (Liability of Shipowners and Others) Act 1900” substitute “section 191 of the Merchant Shipping Act 1995 (which limits the liability of harbour, conservancy, dock and canal authorities)”.

*Food and Environment Protection Act 1985 (c. 48)*

75 In section 24(1) of the Food and Environment Protection Act 1985—

(a) in the definition of “British vessel”, for “Merchant Shipping Act 1894” substitute “Merchant Shipping Act 1995”;

(b) in the definition of “vessel”, for “it by section 742 of the Merchant Shipping Act 1894”, substitute ““ship” by the Merchant Shipping Act 1995”.

*Protection of Military Remains Act 1986 (c. 35)*

76 In section 9 of the Protection of Military Remains Act 1986, in the definition of “British-controlled ship”, for “Merchant Shipping Act 1894” substitute “Merchant Shipping Act 1995”.

*Wages Act 1986 (c. 48)*

77 In section 30(3) of the Wages Act 1986, for “Merchant Shipping Act 1970” substitute “Part III of the Merchant Shipping Act 1995”.

*Petroleum Act 1987 (c. 12)*

78 In section 23(8) of the Petroleum Act 1987, for “16(2) of the Merchant Shipping Act 1974” substitute “88(4) of the Merchant Shipping Act 1995”.

*Debtors (Scotland) Act 1987 (c. 18)*

79 In section 73(4) of the Debtors (Scotland) Act 1987—

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- (a) in paragraph (a), for “section 742 of the Merchant Shipping Act 1894” substitute “section 313 of the Merchant Shipping Act 1995”; and
- (b) in paragraph (b), for the words from “has” to the end substitute “means any ship which is for the time being employed in sea fishing or in the sea fishing service, and includes any ship which is both—
  - (i) engaged in whale fisheries off the coast of Scotland; and
  - (ii) registered under the Merchant Shipping Act 1995”.

*Pilotage Act 1987 (c. 21)*

80 In the Pilotage Act 1987—

- (a) in section 22—
  - (i) in subsection (3), for “Schedule 4 to the Merchant Shipping Act 1979” substitute “Schedule 7 to the Merchant Shipping Act 1995”;
  - (ii) in subsection (7), for “17 or is excluded under section 18 of the Merchant Shipping Act 1979” substitute “185 or is excluded under section 186 of the Merchant Shipping Act 1995”; and
- (b) in section 31(1)—
  - (i) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “Merchant Shipping Act 1995”;
  - (ii) in the definition of “pilot”, for “has the same meaning as in the Merchant Shipping Act 1894” substitute “means any person not belonging to a ship who has the conduct thereof”.

*Channel Tunnel Act 1987 (c. 53)*

81 In Part III of Schedule 7 to the Channel Tunnel Act 1987, in paragraph 1(2), in the definition of “the Trinity House”, for “742 of the Merchant Shipping Act 1894” substitute “223 of the Merchant Shipping Act 1995”.

*Norfolk and Suffolk Broads Act 1988 (c. 4)*

82 In section 25(1) of the Norfolk and Suffolk Broads Act 1988, in subsection (1), in the definition of “Trinity House”, for “742 of the Merchant Shipping Act 1894” substitute “223 of the Merchant Shipping Act 1995”.

*Local Government Finance Act 1988 (c. 41)*

83 In Schedule 5 to the Local Government Finance Act 1988, in paragraph 12(2), for “731 of the Merchant Shipping Act 1894” substitute “221(1) of the Merchant Shipping Act 1995”.

*Copyright, Designs and Patents Act 1988 (c. 48)*

84 In the Copyright, Designs and Patents Act 1988—

- (a) in section 162(2), in the definition of “British ship”, for “Merchant Shipping Acts (see section 2 of the Merchant Shipping Act 1988)” substitute “Merchant Shipping Act 1995”; and

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- (b) in section 210(2), in the definition of “British ship”, for “Merchant Shipping Acts (see section 2 of the Merchant Shipping Act 1988)” substitute “ Merchant Shipping Act 1995 ”.

*Road Traffic Act 1988 (c. 52)*

- 85 In section 144(2)(c) of the Road Traffic Act 1988, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Wages (Northern Ireland) Order 1988 (S.I. 1988/796 (NI 7))*

- 86 In Article 26(3) of the Wages (Northern Ireland) Order 1988, for “the Merchant Shipping Act 1970” substitute “ Part III of the Merchant Shipping Act 1995 ”.

*Criminal Justice (International Co-operation) Act 1990 (c. 5)*

- 87 In section 5(7) of the Criminal Justice (International Co-operation) Act 1990, in the definition of “British ship”, for “Merchant Shipping Acts 1894 to 1988” substitute “ Merchant Shipping Act 1995 ”.

*Aviation and Maritime Security Act 1990 (c. 31)*

- 88 (1) The Aviation and Maritime Security Act 1990 shall be amended as follows.
- (2) In section 14(3), for “686 or 687 of the Merchant Shipping Act 1894” substitute “ 281 or 282 of the Merchant Shipping Act 1995 ”.
- (3) In section 15(8), in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.
- (4) In section 35(4), for “692 of the Merchant Shipping Act 1894” substitute “ 284 of the Merchant Shipping Act 1995 ”.
- (5) In section 45—
- (a) in subsection (7)(a), for “section 59(1) of the Merchant Shipping Act 1894” substitute “ registration regulations ”; and
- (b) in subsection (10), for the words following “provisions” substitute “ mean Part II of the Merchant Shipping Act 1995, or any Order in Council under section 1 of the Hovercraft Act 1968. ”.
- (6) In section 46(1)—
- (a) in the definition of “British ship”—
- (i) in paragraph (a), for “Part I of the Merchant Shipping Act 1894, section 5 of the Merchant Shipping Act 1983, Part II of the Merchant Shipping Act 1988” substitute “ Part II of the Merchant Shipping Act 1995 ”;
- (ii) in paragraph (b), for “Part I of the Merchant Shipping Act 1894” substitute “ Part II of the Merchant Shipping Act 1995 ”; and
- (b) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.



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*Water Industry Act 1991 (c. 56)*

- 89 In the Water Industry Act 1991—
- (a) in section 121(6), for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in section 219(1), in the definition of “harbour authority”, for “the Prevention of Oil Pollution Act 1971” substitute “ Chapter II of Part VI of the Merchant Shipping Act 1995 ”.

*Water Resources Act 1991 (c. 57)*

- 90 In section 221(1) of the Water Resources Act 1991—
- (a) in the definition of “harbour”, for “the Merchant Shipping Act 1894” substitute “ section 313 of the Merchant Shipping Act 1995 ”; and
  - (b) in the definition of “harbour authority”, for “the Merchant Shipping Act 1894” substitute “ section 313 of the Merchant Shipping Act 1995 ”, and for “within the meaning of the Prevention of Oil Pollution Act 1971” substitute “ as defined in section 151 for the purposes of Chapter II of Part VI of that Act ”.

*Land Drainage Act 1991 (c. 59)*

- 91 In the Land Drainage Act 1991—
- (a) in section 12(7), for “the Prevention of Oil Pollution Act 1971” substitute “ Chapter II of Part VI of the Merchant Shipping Act 1995 ”;
  - (b) in section 72(1)—
    - (i) in the definition of “conservancy authority”, for “the Prevention of Oil Pollution Act 1971” substitute “ Chapter II of Part VI of the Merchant Shipping Act 1995 ”; and
    - (ii) in the definitions of “harbour” and “harbour authority”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Dangerous Vessels (Northern Ireland) Order 1991 (S.I. 1991/1219 (NI 10))*

- 92 In Article 4(b) of the Dangerous Vessels (Northern Ireland) Order 1991, for “Merchant Shipping (Liability of Shipowners and Others) Act 1900” substitute “ section 191 of the Merchant Shipping Act 1995 (which limits the liability of harbour, conservancy, dock and canal authorities) ”.

*Judicial Pensions and Retirement Act 1993 (c. 8)*

- 93 In the Judicial Pensions and Retirement Act 1993—
- (a) in section 26(8)(c), for “52 of the Merchant Shipping Act 1970” substitute “ 61 of the Merchant Shipping Act 1995 ”;
  - (b) in Schedule 5, in the entry for a “Wreck commissioner”, for “82 of the Merchant Shipping Act 1970” substitute “ 297(1) of the Merchant Shipping Act 1995 ”; and
  - (c) in Schedule 7, in paragraph 5(5)(xxxiii), for “82 of the Merchant Shipping Act 1970” substitute “ 297(1) of the Merchant Shipping Act 1995 ”.

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*Clean Air Act 1993 (c. 11)*

- 94 In the Clean Air Act 1993—
- (a) in section 46(6), in the definition of “Government ship”, for “section 80 of the Merchant Shipping Act 1906” substitute “ the Merchant Shipping Act 1995 ”; and
  - (b) in section 64(1), in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ “ship” in the Merchant Shipping Act 1995 ”.

*Value Added Tax Act 1994 (c. 23)*

- 95 In section 33(3)(h), for “Part XI of the Merchant Shipping Act 1894” substitute “ Part VIII of the Merchant Shipping Act 1995 ”.

SCHEDULE 14

Section 314.

TRANSITORY, SAVING AND TRANSITIONAL PROVISIONS

*Extra-territorial provisions*

- 1 (1) Without prejudice to section 315(1), the repeals made by this Act shall not affect the law in force in any country or territory which is outside the United Kingdom.
- (2) In particular, the repeal of section 735 of the <sup>M90</sup>Merchant Shipping Act 1894 shall not affect the power of Her Majesty in Council to confirm any legislation made by the legislature of a British possession under that section as it extends to that possession.
- (3) The provisions of this Act (including the repeal of any power by Order in Council to extend any enactment to a relevant British possession) or of any enactment which has been so extended, do not extend to any such possession except in so far as they are extended to that possession by an Order in Council under section 315(2) of this Act.

**Marginal Citations**

**M90** 1894 c. 60.

*References to registration in other legislation*

- 2 Any reference in an enactment in any other Act (not amended by Schedule 13), or in any instrument made under any other Act to the registration of a ship (or fishing vessel) under—
- (a) Part I of the Merchant Shipping Act 1894,
  - (b) section 5 of the <sup>M91</sup>Merchant Shipping Act 1983,
  - (c) section 13 of the <sup>M92</sup>Merchant Shipping Act 1988, or
  - (d) section 1 of the <sup>M93</sup>Merchant Shipping (Registration, etc.) Act 1993,
- shall be construed, unless the context otherwise requires, as, or as including, a reference to registration under Part II of this Act; and connected phrases shall be construed accordingly.

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#### Marginal Citations

**M91** 1983 c. 13.

**M92** 1988 c. 12.

**M93** 1993 c. 22.

#### *Qualifications: certificates of A.B.*

- 3 (1) A seaman engaged in any United Kingdom ship shall not be rated as A.B. unless he is the holder of a certificate of competency granted in pursuance of regulations under this paragraph.
- (2) The Secretary of State may make regulations providing for the grant of certificates of competency as A.B. for the purposes of this paragraph.
- (3) The regulations shall direct that no certificate shall be granted to any person unless—
- he has reached such minimum age as may be prescribed;
  - he has performed such qualifying service at sea as may be prescribed; and
  - he has passed such examination as may be prescribed.
- (4) The regulations may make such consequential provisions as appear to the Secretary of State to be necessary or expedient, including provision—
- for the payment of prescribed fees in respect of any application for the grant or replacement of a certificate;
  - for applying section 104 of the Merchant Shipping Act 1894 (offences) to certificates, subject to such adaptations and modifications as may be prescribed.
- (5) Where provision is made by the law of any Commonwealth country for the grant of certificates of competency as A.B, and the Secretary of State is satisfied that the conditions under which such a certificate is granted require standards of competency not lower than those required for the grant of a certificate under the regulations, Her Majesty may by Order in Council direct that certificates granted in that country shall have the same effect for the purposes of this paragraph as if they had been granted under the regulations; and any such Order may apply to any such certificate any of the provisions of the regulations.
- (6) Any Order in Council under sub-paragraph (5) above shall be laid before Parliament after being made.
- (7) Any superintendent or other officer before whom a seaman is engaged in any United Kingdom ship shall refuse to enter the man as A.B. on the crew agreement unless the seaman produces a certificate or such other proof that he is the holder of such a certificate as may appear to the superintendent or other officer to be satisfactory.
- (8) In this paragraph—
- “certificate” means a certificate of competency under the regulations;
  - “prescribed” means prescribed by the regulations; and
  - “the regulations” means regulations under this paragraph.

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*Manning: certificates existing in 1979*

- 4 (1) The power to make regulations under section 47 includes power to make regulations providing that pre-1979 certificates shall, except in such cases as are specified in the regulations, be deemed for the purposes of such of the provisions of Part III 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.
- (2) In this paragraph “pre-1979 certificate” means a certificate granted under section 93, 99 or 414 of the Merchant Shipping Act 1894, a certificate referred to in an Order in Council made under section 102 of that Act, a certificate granted under section 27(2) of the <sup>M94</sup>Merchant Shipping Act 1906 or by an institution approved in pursuance of that subsection and a certificate granted under section 5 of the <sup>M95</sup>Merchant Shipping Act 1948.

**Marginal Citations**

**M94** 1906 c. 48.

**M95** 1948 c. 44.

*Masters and seamen: postponed commencements*

- 5 (1) No provision to which this paragraph applies shall have effect until the Secretary of State by order appoints a day for that provision to come into force.
- (2) This paragraph applies to sections 60, 80(2) and (4), 111, 115, 116, 118, 119(2) and (3), 127, 314(1) so far as it relates to the repeal in the Aliens Restriction (Amendment) Act 1919 or in the Local Government etc. (Scotland) Act 1994.

*Masters and seamen and documents: transitory provisions*

- 6 (1) A provision to which this paragraph applies shall cease to have effect on such day as the Secretary of State by order appoints.
- (2) This paragraph applies to sections 57, 287(1)(a) and 298, paragraph 26 of Schedule 3 and paragraph 3 of this Schedule.

*Safety provisions: saving of instruments, etc*

- 7 (1) Notwithstanding the repeal by the Merchant Shipping (Registration, etc.) Act 1993 of the following provisions, instruments in force before the repeal under the provisions specified in the left-hand column shall continue in force until superseded by safety regulations and the related provisions specified in the right-hand column shall continue in force for the purposes of those instruments:

***Empowering provision***

1894 Act: section 427

1949 Act: section 3  
section 21

1964 Act: section 2

***Related provisions***

— Section 430.

— Sections 3(5) and (6) and 28.

— Section 21(3).

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1967 Act (c.64): section 1 — Section 1(2) and (3).  
1977 Act: section 2 — —

- (2) The Secretary of State may exempt any ships or classes of ships from any requirements of the rules for life-saving appliances or the radio rules, either absolutely or subject to such conditions as he thinks fit.

In this sub-paragraph—

“the rules for life-saving appliances” means rules under section 427 of the 1894 Act saved by sub-paragraph (1) above; and

“the radio rules” means rules under section 3 of the 1949 Act saved by that sub-paragraph.

*Oil pollution: saving for certain transitional provisions*

- 8 Notwithstanding the repeal of section 38 of the <sup>M96</sup>Merchant Shipping Act 1979 any transitional provisions included by virtue of subsection (6) of that section in a commencement order under section 52(2) of that Act shall continue to have effect.

**Marginal Citations**

**M96** 1979 c. 39.

*Lighthouses: dependencies*

- 9 (1) Section 193(5) shall cease to have effect on such day or days as the Secretary of State by order appoints.
- (2) Until that day, the powers of the Trinity House under Part VIII with respect to lighthouses, buoys and beacons in the islands of Guernsey or Jersey other than their powers under sections 204 and 220 shall not be exercised without the consent of Her Majesty in Council.
- (3) Until that day, no dues for any lighthouse, buoy or beacon erected or placed in or near the islands of Guernsey, Jersey, Sark or Alderney shall be levied in the islands of Guernsey or Jersey without the consent of the States of those Islands respectively.
- (4) Any Order in Council under sub-paragraph (2) above shall be laid before Parliament.
- (5) There shall continue to be paid out of the General Lighthouse Fund under section 211 any expenditure incurred by the Government of the United Kingdom in pursuance of the arrangement made with the Government of Sri Lanka on 27th February 1976 for the transfer of certain lighthouses off the coast of that country.

*Lighthouses: Scotland*

- 10 Prior to the commencement of paragraph 7 of Schedule 13 to the <sup>M97</sup>Local Government etc. (Scotland) Act 1994, Schedule 8 shall have effect as if—
- (a) in paragraph 1(2), in head (a), for the words from “conveners” to “Bute” there were substituted “ chairmen of the Inverness and Argyll district councils ”;

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- (b) in paragraph 2(1), for the words “convener of any” there were substituted “chairmen of any district”; and
- (c) paragraph 5 were omitted.

#### Marginal Citations

M97 1994 c. 39.

#### *Wreck and salvage: Cinque ports*

- 11 Nothing in Part IX shall prejudice or affect any jurisdiction or powers of the Lord Warden or any officers of the Cinque ports or of any court of those ports or of any court having concurrent jurisdiction within the boundaries of those ports; and disputes as to salvage arising without those boundaries shall, subject to the Salvage Convention as set out in Schedule 11, be determined in the manner in which they have been hitherto determined.

#### *Wreck: Liability for damage in case of plundered vessel in Scotland*

- 12 Prior to the commencement of paragraph 1 of Schedule 13 to the Local Government etc. (Scotland) Act 1994, section 235(4) shall have effect as if for the words “constituted under section 2 of the Local Government etc. (Scotland) Act 1994” there were substituted “of the regional or islands area”.

#### *Behring Sea Award*

- 13 Nothing in this Act shall affect the <sup>M98</sup>Behring Sea Award Act 1894.

#### Marginal Citations

M98 1894 c. 2.

## TABLE OF DERIVATIONS

### Notes

- 1 This Table shows the derivations of the provisions of the Bill.
- 2 The following abbreviations are used in the Table:—

### ACTS OF PARLIAMENT

1894	= Merchant Shipping Act 1894 (c.60)
1900	= Merchant Shipping (Liability of Shipowners and others) Act 1900 (c.32)
1906	= Merchant Shipping Act 1906 (c.48)

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1911 MC	= Maritime Conventions Act 1911 (c.57)
1970 FV	= Fishing Vessels (Safety Provisions) Act 1970 (c.27)
1970	= Merchant Shipping Act 1970 (c.36)
1971	= Merchant Shipping (Oil Pollution) Act 1971 (c.59)
1971 POP	= Prevention of Oil Pollution Act 1971 (c.60)
1974	= Merchant Shipping Act 1974 (c.43)
1979	= Merchant Shipping Act 1979 (c.39)
1981	= Merchant Shipping Act 1981 (c.10)
1982 CJ	= Criminal Justice Act 1982 (c. 48)
1984	= Merchant Shipping Act 1984 (c.5)
1988	= Merchant Shipping Act 1988 (c.12)
1993	= Merchant Shipping (Registration etc) Act 1993 (c.22)
1994	= Merchant Shipping (Salvage and Pollution) Act 1994 (c.28)

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#### SUBORDINATE LEGISLATION

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1995 SC	= Merchant Shipping (Survey and Certification) Regulations 1995 (S.I. 1995/1210)
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- 3 By the Transfer of Functions (Trade and Industry) Order 1983, S.I. 1983/1127, the functions of the Secretary of State for Trade (who succeeded to the functions of the Board of Trade under previous Orders) relating to shipping were transferred to the Secretary of State for Transport. This effect on the numerous references to the Board of Trade is not noted in the Table.
- 4 By Schedule 1, paragraph 1 to the Customs and Excise Management Act 1979 (c.2) references to the Commissioners of Customs or to officers of customs in pre—1.4.1909 (when the respective Commissioners and their officers were assimilated) enactments became references to the Commissioners of Customs and Excise and officers of customs and excise respectively. This effect is not noted in the Table.
- 5 Schedule 4, paragraph 2 of the 1993 Act effected general changes in the terminology used in the Merchant Shipping Acts. These included—
  - (a) assimilating “ship” and “vessel” so that generally only “ship” is used;
  - (b) enabling use to be made in the many contexts where the provision has one or other of these meanings of the expressions “United Kingdom waters” and “national waters”; and
  - (c) substituting its “equipment” for the tackle, equipments, furniture or apparel of a ship.

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These changes in terminology are not noted against the numerous provisions affected.

6 The general conversion of then-existing fines in terms of amounts of money into levels on the standard scale effected by section 46 of the Criminal Justice Act 1982 (c.48) is not noted in the Table against the numerous provisions affected by the conversion; nor is the general increase in summary penalties effected in pre-1949 enactments by section 31(6) of the Criminal Law Act 1977 (c.45). But specific alterations are noted.

7 As regards offences, paragraph 74 of Schedule 4 to the 1993 Act made three changes. These were—

- (a) the substitution of “intentionally” for “wilfully”;
- (b) the substitution of “permitting” for “suffering” or “allowing” a thing to be done; and
- (c) the substitution of “excuse” for “cause” in the expression “reasonable cause”.

These are not noted against the provisions affected.

8 Section 1(1)(c) of the Merchant Shipping (Mercantile Marine Fund) Act 1898 (c.44) translated all references to that Fund into references to the General Lighthouse Fund constituted by that section. These are not noted in the Table against the numerous provisions affected.

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<b>Provision</b>	<b>Derivation</b>
1(1), (2)	1993 Sch.3 para.1(1),(2); Sch.4 para.1(1).
(3)	Drafting.
2(1) to (3)	1993 Sch.3 para.2.
(4)	1894 s.738(2)
3	1993 Sch.3 para.5.
4	1993 Sch.3 para.3.
5	1993 Sch.3 para.4.
6	1993 Sch.3 para.6.
7(1),(2)	1894 s.76(1); 1988 Sch.1. para.47; 1993 Sch.4 para.2(4)
(3),(4)	1894 s.76(2); 1988 Sch.1 para.47.
(5)	1894 s.76(1).
8	1993 s.1(1) to (5).
9	1993 s.2.
10	1993 s.3(1) to (7), (9).
11	1894 s.82; 1993 Sch.2 para.2(a).
12(1),(2)	1894 s.84(1); 1988 Sch.1 para.48.



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(3)	Merchant Shipping Act 1965 (c.47) Schedule 1.
(4),(5)	1894 s.84(2),(3).
13	1993 Sch.3 para.7.
14	1993 s.4.
15	1993 s.5.
16	1993 s.6.
17	1993 s.7.
18	1988 s.11; 1993 Sch.2 para.15(2).
19	1965 s.1 (1) to (4), (6),(6A); 1970 s.91; 1979 Sch.6 Pt.VI para.6.
20	1894 s.76.
21	1988 s.52; 1993 Sch.2 para.15(4).
22	1894 s.66; 1993 Sch.4 para.71.
23	1993 s.9(2), (3).
24(1),(2)	1970 s.96(1); 1988 Sch.5.
(3)	1970 s.95(1).
25	1970 s.1; 1979 Sch.6 Pt.III.
26	1970 s.2; 1979 Sch.6 Pt.VI para.8.
27	1970 s.3; 1979 Sch.6 Pt.VI para.8.
28	1970 s.4.
29	1970 s.5.
30(1)	1970 s.7(1); 1988 s.46(2).
(2)	1970 s.7(2); 1988 s.46(3).
(3)	1970 s.7(3); 1988 s.46(4).
(4) to (6)	1970 s.7(3A) to (3C); 1988 s.46(5).
(7)	1970 s.7(4); 1988 s.46(6).
(8),(9)	1970 s.7(5),(6); 1988 s.46(7).
(10)	1970 s.7(7); 1988 s.46(8).
31 (1) to (3)	1970 s.8(1) to (3); 1988 s.46(9).
(4)	1970 s.8(3A); 1988 s.46(9)
(5),(6)	1970 s.8(4),(5); 1979 Sch.6 Pt.I.
32	1970 s.9.
33	1970 s.10.
34(1)	1970 s.11(1); 1993 Sch.4 para.9.
(2),(3)	1970 s.11(2),(3).

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(4)	1979 s.39(3).
(5)	Child Support Act 1991 (Consequential Amendments) Order 1993 (S.I. 1993/785) art.5; Child Support (Northern Ireland) Order 1991 (Consequential Amendments) Order (Northern Ireland) 1993 (S.R. (NI) 1993 No.157) art.5.
(6)	1979 s.39(2).
35	1970 s.12.
36	1970 s.13.
37	1970 s.14.
38(1) to (3)	1970 s.15(1) to (3).
(4)	1979 s.37(1).
39	1970 s.16.
40(1) to (9)	1970 s.17(1) to (9).
(10),(11)	1970 s.17(10),(11); Transfer of Functions (Local Government etc.) (Northern Ireland) Order 1973 (1973 SR&O (NI) 1973/256) Sch.1; Sch. 2 Social Security Act 1989 (c.24) s.5(5); 1993 Sch.4 para.10; S.I.
41	1970 s.18.
42(1),(2)	1894 s.458(1); 1993 Sch.4 paras.6(1), 7.
(3)	1894 s.458(2)(a).
43	1970 s.20; 1979 Sch.6 Pt.IV.
44(1)	1970 s.22(1); S.I. 1989/102 reg.1(3)(b).
(2),(3)	1970 s.22(2),(3).
(4)	1970 s.22(4); 1979 Sch.6 Pts.II, III.
45	1970 ss.26, 97(5).
46	1970 s.49.
47	1970 s.43; 1979 Sch.6 Pt.IV.
48	1970 s.44.
49(1)	1970 s.45; 1979 Sch.6 Pt.IV; 1982 CJ s.49(1).
(2)	1970 s.96(2); 1988 Sch.5.
50	1970 s.47; 1979 Sch.6 Pt.II.
51	1970 s.48; 1979 Sch.6 Pt.IV.

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52	1970 s.46; 1979 s.43(2) Sch.6 Pt.V; 1982 CJ s.49(1).
53	1970 s.25.
54	1970 s.50; 1979 Sch.6 Pt.IV.
55	1970 s.51; 1979 Sch.6 Pt.II.
56	1988 s.26.
57	Mercantile Marine Uniform Act 1919 (c.62) s.1.
58(1) to (5)	1970 s.27(1) to (5); 1988 s.32.
(6)	1970 ss.27(6), 33.
(7),(8)	1970 s.27(7),(8); 1988 s.32.
59	1970 s.30(c); 1974 s.19(4); 1979 Sch.6 Pt.VII para.21; 1982 CJ s.49(1).
60(1)	1979 s.23(1).
(2)	1979 s.23(1)(a).
(3)	1979 s.23(1)(b).
(4)	1979 s.23(1)(c).
(5)	1979 s.23(1)(d).
(6)	1979 s.23(1)(e).
(7)	1979 s.23(1)(f).
(8)	1979 s.23(1) full out.
(9),(10)	1979 s.23(3).
61	1970 s.52.
62	1970 s.53.
63	1970 s.54.
64	1970 s.57.
65	1970 s.58; 1988 Sch.6.
66	1970 s.59; 1979 Sch.6 Pt.II.
67	1970 s.60.
68	1988 s.44.
69	1988 s.45.
70	1970 s.39.
71	1970 s.40.
72	1970 s.41.
73(1) to (3)	1970 s.62(1) to (3).

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(4)	1970 s.62(4); British Nationality Act 1981 (c.61) s.51(3).
(5)	1970 s.62(5).
(6)	1970 s.62(6); 1979 Sch.6, Pt.VI para.8.
(7)	1970 s.62(7).
(8)	1970 s.67.
74	1970 s.63.
75	1970 s.64.
76	1988 s.27.
77	1970 s.68; 1979 Sch.6 Pt.III, Pt.IV para.4; 1982 CJ s.46(2).
78	1970 s.69; 1979 Sch.6 Pt.VI para.4; 1982 CJ s.46(2).
79(1)	1970 s.70(1).
(2)	1970 s.70(2); 1979 Sch.6 Pt.VI para.4; 1982 s.46(2).
(3)	1970 s.70(3); British Nationality Act 1981 (c.61) Sch.7.
(4)	1970 s.70(4); 1979 Sch.6 Pt.III.
80(1)	1970 s.71(1).
(2)	1979 s.23(5).
(3)	1970 s.71(2); 1979 Sch.6 Pt.VI para.4; 1982 CJ s.46(2).
(4)	1979 s.23(6); 1982 CJ s.49(1).
81	1970 s.74; 1979 Sch.6 Pt.II.
82	1988 ss.28, 53(2)(a).
83	1988 s.29.
84	1970 s.97(1) to (4), (6).
85(1)	1979 s.21(1); Safety at Sea Act 1986 (c.23) s.11(1), (4); 1993 Sch.4 para.6(4).
(2)	1979 s.21(2); British Nationality Act 1981 (c.61) s.51(3).
(3)	1979 s.21(3); Safety at Sea Act 1986 (c.23) s.11(2), (4).
(4)	1979 s.21(3A); 1993 Sch.4 para.13(3).
(5),(6)	1979 s.21(4),(5).
(7)	1979 s.21(6); 1982 CJ s.49(3).

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86(1)	1979 s.22(1); 1993 Sch.4 para.13.
(2)	1979 s.22(3).
(3)	1979 s.22(4)
(4)	1979 s.22(2).
(5),(6)	1979 s.49(4A),(4B); Safety at Sea Act 1986 (c.23) s.11(3); 1988 Sch.5.
87(1),(2)	1894 s.449(1); 1993 Sch.4 para.11(2) (a).
(3),(4)	1894 s.449(2); 1993 Sch.4 para.11(2) (b).
(5)	1894 s.449(3); 1993 Sch.4 para.11(2) (c).
88(1)	1974 s.16(1); 1993 Sch.4. para.6(3)
(2)	1974 s.17(1); 1993 Sch.4 para.6(3).
(3)	1974 s.17(3).
(4)	1974 s.16(2).
89	Drafting.
90	1970 s.86.
91(1)	Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c.9) s.24(1).
(2)	1932 (c.9) s.24(1); Merchant Shipping Act 1964 (c.47) s.16.
(3)	1932 (c.9) s.24(2).
(4)	1932 (c.9) s.24(3); 1979 Sch.6 Pt.III.
(5),(6)	1932 (c.9) s.24(4); Post Office Act 1969 (c.48) s.3(1)(i).
(7)	1932 (c.9) s.24(4),(5).
92(1)	1894 s.422(1).
(2)	1993 Sch.4 para.6(2).
(3)	1911 MC s.4(2).
(4)	1894 s.422(3); 1979 Sch.6 Pt.VII para.6.
93(1),(2)	Merchant Shipping (Safety Convention) Act 1949 (c.43) s.22(1),(2).
(3)	1993 Sch.4 para.6(2).
(4),(5)	1949 (c.43) s.22(3),(4).
(6)	1949 (c.43) ss.22(5), 37(3) incorporating 1894 s.680(1)(a).

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(7)	1949 (c.43) s.22(8).
94(1),(2)	1988 ss.30(1),(3), 30A(5).
(3)	1988 s.30(9).
95	1988 s.30A; 1993 Sch.4 para.12(2).
96(1)	1984 s.4(1); 1993 Sch.4 para.12(3),(4).
(2)	1984 s.4(2); 1993 Sch.4 para.12(4)(c).
(3)	1993 Sch.4 para.12(4)(d).
(4)	1984 s.4(3).
(5)	1993 Sch.4 para.12(4)(e).
(6),(7)	1984 s.4(5); Courts and Legal Services Act 1990 (c.41) Sch.10 para.55.
(8),(9)	1984 s.4(6),(7)
(10)	1993 Sch.4 para.12(4)(a).
97(1)	1984 s.5(1); 1993 Sch.4 para.12(3),(4).
(2)	1984 s.5(4).
(3)	1984 s.5(5).
(4)	1993 Sch.4 para.12(4)(a).
98	1988 s.30(1),(2),(4) to (10).
99	Merchant Shipping Act 1921 (c.28) ss.2, 3.
100	1988 s.31.
101(1)	1894 s.287(1); 1995 SC reg.1(5).
(2)	1894 s.287(2); 1993 Sch.4 para.14.
(3)	1894 s.287(3); 1993 Sch.4 para.14.
(4)	1894 s.287(1),(2); 1979 Sch.6 Pt.I.
(5)	1894 s.287(4).
(6)	1995 SC reg.1(5).
102	1894 s.288; 1993 Sch.4 para.2(1)(g); 1995 SC reg.1(6).
103	1970 s.77; 1979 Sch.6 Pt VI para.9.
104	1970 s.78; Aviation and Maritime Security Act 1990 (c.31) Sch.3.
105	1970 s.79.
106(1)	1970 s.32.
(2)	1970 s.96(2); 1988 Sch.5.
(3)	1970 s.95(1)(a).

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107	1906 s.76; 1979 Sch.6 Pt.VI para.13; 1993 Sch.4 para.15.
108(1)	1970 s.72(1).
(2),(4)	1970 s.72(1)(a).
(3),(4)	1970 s.72(1)(b); British Nationality Act 1981 (c.61) s.51(3).
(5),(6)	1979 s.30(1).
(7)	1970 s.72(2); 1979 s.30(1).
(8)	1970 s.72(3).
(9)	1970 s.72(4); 1979 Sch.6 Pt.VI para.4; 1982 CJ s.46(3).
(10)	1970 s.72(5).
(11)	1970 s.97(5).
109	1970 s.95(1), Sch.2 Pt.I para.1; 1982 CJ s.38(8).
110	1970 ss.7, 95(1)(b), Sch.2 Pt.II.
111	1979 s.24.
112	1970 ss.8, 95(1)(b), Sch.2 Pt.II.
113	1970 s.95(4); Attachment of Earnings Act 1971 (c.32) s.27(3); Judgments Enforcement (Northern Ireland) Order (S.I. 1981/226 Sch.2 para.17).
114	1970 s.95(2).
115	1970 s.95(1)(a), Sch.2 para.4; 1979 Sch.6 Pt.III.
116	1970 s.95(1)(a), Sch.2 para.3; 1979 Sch.6 Pt.II; 1982 CJ s.38(8).
117	1970 ss.28, 33; 1979 s.45(2) Sch.6 Pt.VII para.20; Safety at Sea Act 1986 (c.23) s.10.
118	1979 s.25.
119(1)	1970 s.95(1)(a); 1979 s.45(3).
(2),(3)	1979 s.23(2).
120	1970 s.95(5).
121	1970 FV s.1; 1979 Sch.6 Pt.V.
122(1)	1970 FV s.2(1); 1986 s.5(1).
(2)	Drafting.
123	1970 FV s.3(1) to (3), 9(1).

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124(1) to (4)	1970 FV s.3(4); 1894 ss.280, 281(1), (2); 1993 Sch.4. para.16.
(5),(6)	1970 FV s.3(4); 1894 ss.282,680(1).
(7)	1970 FV s.3(5).
125	1970 FV s.4(1) to (3); 1979 s.43(2), Sch.6 Pt.V.
126	1970 FV s.5; 1982 CJ s.38(8).
127	Safety at Sea Act 1986 (c.23) ss.7, 9(1).
128(1)	1979 s.20(1); 1994 s.2(1).
(2)	1979 s.20(2).
(3)	1979 s.20(3); Environmental Protection Act 1990 (c.43) s.148(2); 1988 Sch.6; 1994 s.3(2).
(4)	1979 s.20(4); 1994 s.3(3).
(5),(6)	1979 s.20(4A),(4B); 1994 s.3(4).
(7)	1979 s.20(5).
(8),(9)	1979 s.20(6); 1994 s.2(2).
129	1979 s.20A; 1994 s.4.
130(1) to (3)	1988 s.35.
(4)	1988 s.53(2).
131(1),(2)	1971 POP s.2(2A), (2B); Prevention of Oil Pollution Act 1986 (c.6) s.1(1).
(3)	1971 POP s.2(4).
(4)	1971 POP s.29(1).
(5),(6)	1971 POP s.2(3).
132	1971 POP s.5.
133	1971 POP s.6(1) except (b) and (c).
134	1971 POP s.7.
135	1971 POP s.10; 1979 Sch.6 Pt.II.
136	1971 POP ss.11 except (c), 29(1); 1979 Sch.6 Pt.IV.
137	1971 POP s.12; 1994 s.8(6).
138	1971 POP s.13.
139	1971 POP s.14.
140(1)	1971 POP s.15(1); Companies Consolidation (Consequential Provisions) Act (c.9) 1985 Sch.2.
(2)	1971 POP s.15(2).



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(3)	1971 POP s.15(3); S.I. 1986/1032 (NI6) Sch.1 Pt.II.
141	1971 POP s.16.
142(1) to (4)	1971 POP s.17(1) to (4).
(5)	1971 POP s.27(4).
(6) to (8)	1971 POP s.17(5); 1979 Sch.6 Pt.VI para.17.
(9)	1971 POP s.17(6).
(10)	1971 POP s.29(1).
143(1)	1971 POP s.19(1).
(2),(3)	1971 POP ss.19(1), 30(4).
(4)	1971 POP s.19(2).
(5)	1971 POP s.19(3).
(6),(7)	1971 POP s.19(4A); Environmental Protection Act 1990 (c.43) Sch.14 para.2.
144(1) to (7),(10)	1971 POP s.19A; Environmental Protection Act 1990 s.148(1), (3), Sch.14 paras. 1, 3.
145	1971 POP s.19A(8), (9); Environmental Protection Act 1990 s.148(1), (3), Sch.14 paras.1, 3.
146	1971 POP s.20; Debtors (Scotland) Act 1987 (c.18) Sch.6 para.14; Environmental Protection Act 1990 (c.43) Sch.14 para 4; 1993 Sch.4 para.66.
147	1971 POP s.21.
148	1971 POP s.23; Petroleum and Submarine Pipelines Act 1975 (c.74) s.45(2); 1979 s.37(8).
149	1971 POP s.24.
150	1971 POP s.26.
151(1),(2)	1971 POP ss.8(2), 29(1).
(3) to (5)	1971 POP s.29(2) to (4).
(6)	1971 POP s.29(5); 1993 Sch.4 para.17(c).
(7)	1971 POP s.32.
152	1971 s.19; 1988 Sch.4 Pt.I para.13; 1994 s.5(1),(4).

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153	1971 s.1; 1988 Sch.4 Pt.1 para.1; 1994 Sch.3 Pt.II para.1.
154	1971 s.1A; 1994 Sch.3 Pt.II para.2.
155	1971 s.2; 1988 Sch.4 Pt.I para.2; 1994 Sch.3 Pt.II para.3.
156	1971 s.3; 1988 Sch.4 Pt.I para.3; 1994 Sch.3 Pt.II para.4.
157	1971 s.4; 1988 Sch.4 Pt.I para.4.
158(1),(2)	1971 s.5(1),(2).
(3)	1971 s.5(2A); 1979 s.38(2).
(4)	1971 s.5(3).
(5)	1971 s.5(4); 1979 Sch.5 para.6(1).
(6),(7)	1971 s.5(5),(6).
(8)	1988 Sch.4 Pt.I para.5.
159	1971 s.6.
160	1971 s.7; 1988 Sch.4 Pt.I para.6.
161	1971 s.8.
162	1971 s.9; 1994 Sch.3 Pt.I para.5.
163(1)	1971 s.10(1).
(2)	1971 s.10(2).
(3)	1971 s.10(3); 1988 Sch.4 Pt.I para.8(b).
(4)	1971 s.10(5).
(5)	1971 s.10(6); 1988 Sch.5.
(6)	1971 s.10(7); 1979 Sch.6 Pt.III.
(7)	1971 s.10(8).
164	1971 s.11.
165	1971 s.12; 1988 Sch.4 Pt.I para.9.
166(1)	1971 s.13(1); [F351Senior Courts Act 1981] (c.54) Sch.5.
(2),(3)	1971 s.13(2),(2A); 1988 Sch.4 Pt.I para.10.
(4)	1971 s.13(3).
167	1971 s.14; 1988 Sch.4 Pt.I para.11.
168	1971 s.15(2); 1979 Sch.5 para.6(2); 1994 Sch.3 Pt.II para.7.
169	1971 s.16.
170	1971 s.20; 1988 Sch.4 Pt.II para.8.

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171(1)	1994 ss.5(1), 10(3).
(2), (3)	1994 s.5(3), (4).
172	1974 s.1(1),(2); 1988 Sch.4 Pt.II para.15; 1994 s.5(1),(4).
173(1)	1974 s.2(1),(10).
(2) to (6)	1974 s.2(2) to (6).
(7)	1974 s.2(7); 1988 Sch.4 Pt.II para.16.
(8) to (10)	1974 s.2(8),(9); 1982 CJ s.38(9); Companies Consolidation (Consequential Provisions) Act 1985 (c.9) Sch.2.
174(1) to (4)	1974 s.3(1) to (4).
(5)	1974 s.3(5); 1979 Sch.6 Pt.IV.
(6)	1974 s.3(6); 1979 Sch.6 Pt.VI para.18.
175(1) to (7)	1974 s.4(1) to (7); 1988 Sch.4 Pt.II para.17(2).
(8) to (10)	1974 s.4(8),(9),(9A); 1988 Sch.4 Pt.II para.17(3).
176	1974 s.4A; 1988 Sch.4 Pt.II para.17(5).
177	1974 s.6; [F351Senior Courts Act 1981] (c.54) Sch.5.
178	1974 s.7(1),(2); 1988 Sch.4 Pt.II para.20(a).
179(1)	1974 s.8(1); 1994 s.7(1).
(2)	1974 s.8(4).
180	1974 s.8A; 1988 Sch.4 Pt.II para.22.
181(1),(2)	1974 s.1(3) to (6); 1988 Sch.4 Pt.II para.15.
(3)	1971 s.20(3); 1988 Sch.4 Pt.I para.14.
182(1)	1994 ss.5(1), 10(3).
(2), (3)	1994 s.5(3), (4).
183	1979 ss.14(1),(2),(4) to (7), 15(2).
184	1979 s.16(2), (3), (5), (6).
185(1),(2)	1979 s.17.
(3)	1979 Sch.5 para.3.
(4)	1979 s.35(2).
186	1979 s.18; 1993 Sch.4 para.6(1).
187(1)	1911 MC s.1(1).

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(2)	1911 MC s.1(1) proviso (a).
(3)	1911 MC s.9(4).
(4)	1911 MC s.1(1) proviso (b).
(5)	1911 MC s.1(1) proviso (c).
(6),(7)	1911 MC s.1(2).
188(1)	1911 MC s.2.
(2)	1911 MC s.9(4).
(3)	1911 MC s.2 proviso.
(4)	1911 MC s.1(2).
189(1)	1911 MC s.3(1).
(2)	1911 MC s.9(4).
(3)	1911 MC s.3(1) proviso.
(4)	1911 MC s.3(2).
190(1) to (4)	1911 MC s.8.
(5),(6)	1911 MC s.8 proviso.
191(1),(2)	Merchant Shipping (Liability of Shipowners and others) 1900 (c.32) s.2(1).
(3)	Ibid.s.3.
(4)	1979 Sch.5 para.1(1).
(5)	1979 Sch.5 para.1(2).
(6)	1979 Sch.5 para.1(3).
(7)	1900 (c.32) s.2(1).
(8)	1900 (c.32) s.2(6).
(9)	Ibid. s.2(4),(5).
192(1)	Crown Proceedings Act 1947 (c.44) ss.5,6,7,30(1); 1979 Sch.5 para.3.
(2)	Ibid. s.38(2).
(3)	Crown Proceedings Order 1981 (SI 1981/233) art.30(1).
193(1)	1894 s.634(1).
(2)	1894 s.634(1); Ports Act 1991 (c.52) s.31(3).
(3)	1894 s.668.
(4)	1894 s.634(1); Ports Act 1991 (c.52) s.34(3).
(5)	1894 s.634(1)(a),(b).

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194	1894 s.635.
195(1)	1894 s.634(1).
(2)	1894 s.634(2).
196	1894 s.634A; 1988 s.41.
197(1)	1894 s.638.
(2),(3)	Ports Act 1991 (c.52) s.31(4),(5).
(4)	1894 s.642; 1993 Sch.4 para.39.
(5)	1894 s.639(1).
(6)	1894 s.639(1A); 1993 Sch.4 para.38.
(7)	1894 s.639(2).
198	1894 s.652.
199(1)	1894 s.653(1).
(2)	1894 s.653(2).
(3)	1894 s.653(3); Ports Act 1991 (c.52) s.31(6).
(4)	1894 s.653(5).
200	1894 s.636.
201	Ports Act 1991 (c.52) s.31(1), (2), (7).
202	Ports Act 1991 (c.52) s.32.
203	Ports Act 1991 (c.52) ss.33(1), 34(2).
204(1)	1894 s.654(1).
(2)	Ports Act 1991 (c.52) ss.33(3), 34(2).
205(1),(2)	1894 s.643; 1993 Sch.4 para.40.
(3)	Merchant Shipping (Mercantile Marine Fund) Act 1898 (c.44) s.5(1).
(4)	1894 s.643.
(5)	Merchant Shipping (Mercantile Marine Fund) Act 1898 (c.44) s.5(2); 1979 s.36(2).
(6)	1894 s.647; 1993 Sch.4 para.42.
(7) to (9)	1894 s.648(2),(3); 1993 Sch.4 para.43.
206	1894 s.643A; 1993 Sch.4 para 41.
207(1)	1894 s.649(1).
(2)	1894 ss.649(1), 681(2).
(3)	1894 s.649(1A); 1993 Sch.4 para.44.
(4)	1894 s.649(2).

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208	1894 s.650; 1993 Sch.4 para.45.
209	1894 s.651; 1993 Sch.4 para.46.
210(1)	Harbours Act 1964 (c.40) s.29(2),(3).
(2)	1964 (c.40) s.29(2).
(3),(4)	1894 s.655(2).
(5)	1964 (c.40) s.30(2); 1993 Sch.4 para.55.
(6)	1964 (c.40) s.30(3).
(7)	1964 (c.40) s.30(4).
(8)	1964 (c.40) s.35.
(9),(10)	1894 s.656.
(11)	1993 Sch.4 para.47.
211(1)	Merchant Shipping (Mercantile Marine Fund) Act 1894 (c.44) s.1(1); 1988 Sch.5.
(2)(a)	1894 s.658; 1988 Sch.5.
(b)	1898 <i>ibid.</i> s.2A(1); 1988 s.43.
(c)	1898 <i>ibid.</i> s.2B; 1988 s.43.
(d)	1898 <i>ibid.</i> s.2(3),(7), Sch.3.
(e)	Drafting.
(3)(a)	1898 <i>ibid.</i> s.1(2); 1988 Sch.5.
(b)	1898 <i>ibid.</i> s.2A(2); 1988 s.43.
(c)	Drafting.
(4),(5)	1894 s.679; 1993 Sch.4 para.53.
212	1894 s.659; Merchant Shipping (Amendment) Act 1920 (c.2) s.1; 1988 Sch.5.
213	1894 s.660.
214	1898 s.1A(1); Superannuation Act 1972 (c.11) s.17(1).
215	1894 s.662; 1988 s.42.
216	1894 s.662A; 1988 s.42.
217	1894 s.662B; 1988 s.42.
218	1894 s.664; 1993, Sch.4 para.49.
219(1), (2)	1894 s.666(1), (1A); 1993, Sch.4 para.50.
(3)	1894 s.666(2); 1979 s.43(1), Sch.6 Pt.III.

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220(1),(2)	1894 s.667(1).
(3)	1894 s.667(2).
(4)	1894 s.667(3); 1979 Sch.6 Pt.VIII para.9.
(5),(6),(7)	1894 ss.667(4), 681(2); 1993 Sch.4 para.51.
(8)	1894 s.667(4A); 1993 Sch.4 para.51.
221(1),(2)	1894 s.731; 1988 Sch.5.
(3)	Ports Act 1991 (c.52) s.36(2)(c).
(4),(5)	1894 s.721(b),(c).
222	1894 s.732.
223(1)	1894 s.742.
(2)	1894 s.638; 1993 Sch.4 para.37.
(3),(4)	1979 ss.34(3), 49(3).
224	1994 s.1.
225	1894 s.551.
226(1),(2)	1894 s.552(1),(2).
(3),(4)	1894 s.552(3),(4); 1993 Sch.4 para.30; 1994 Sch.2 para.1(3).
(5)	Drafting.
(6)	Drafting.
227	1894 s.553.
228(1) to (3)	1894 s.555(1); 1993 Sch.4 para.30.
(4)	1894 s.555(2).
(5)	1894 s.555(2A); 1994 Sch.2 para.1(4).
(6)	1894 s.555(2).
(7)	1894 s.555(3).
229(1)	1894 s.556; 1993 Sch.4 para.30.
(2)	1894 s.556; 1994 Sch.2 para.1(5).
(3)	1894 s.556.
(4)	Drafting.
230(1),(2)	Crown Proceedings Act 1947 (c.44) s.8; 1994 Sch.2 para.3.
(3) to (5)	1894 s.557; Defence (Transfer of Functions) Act 1964 (c.15) ss.1(2), 3(2).
(6)	Drafting.

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(7)	Crown Proceedings Act 1947 s.38(2).
(8)	Crown Proceedings Order 1981 (SI 1981/233) art.30(1).
231(1)	1894 ss.511, 512, 513, 515.
(2)	1894 s.516(1); 1993 Sch.4 para.21.
(3), (4)	1894 s.516(2).
(5)	1894 s.511(1).
232	1894 ss.511, 680(1)(b).
233	1894 ss.512, 680(1)(b); 1993 Sch.4 para.2(5).
234(1) to (4)	1894 s.513(1).
(5),(6)	1894 s.513(2).
(7)	1894 s.513(3); 1982 CJ s.38(8).
235(1)	1894 s.515; Public Order Act 1986 (c.64) s.10(1).
(2),(3)	1894 s.515, first paragraph.
(4)	1894 s.515, second paragraph; Local Government (Scotland) Act 1973 (c.65) Sch.27 Pt.II para.24; 1993 Sch.4 para.20.
(5)	1894 s.515, third paragraph; Transfer of Functions (Criminal Injuries to Vessels) (Northern Ireland) Order 1973, SR&O (NI) 1973/56 art.3(1).
236(1) to (3)	1894 ss.518, 681(2); 1906 s.72, 1979 Sch.6 Pt.III; 1993 Sch.4 para.22.
(4)	1894 s.518(2); 1993 Sch.4 para.22(e).
237	1894 s.519; 1979 Sch.6 Pt.VI.
238	1894 s.520; 1993 Sch.4 para.23.
239(1)	1894 s.521(1).
(2),(3)	1894 s.521(2); Consular Conventions Act 1949 (c.29) s.5(2).
240	1894 s.522; 1993 Sch.4 para.24.
241	1894 s.523.
242	1894 s.524; 1993 Sch.4 para.25.
243	1894 s.525; 1898 s.1(1)(a).
244	1894 s.527.
245	1894 s.535; Criminal Justice Act 1948 (c.58) s.1; 1993 Sch.4 para.2(5).



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246(1),(2)	1894 s.536(1).
(3)	1894 s.536(2).
(4)	1894 s.536(1).
(5)	1894 s.536(1),(2); 1979 Sch.6 Pt.II.
247	1894 s.537; 1993 Sch.4 para.28.
248	1894 s.566; 1993 Sch.4 para.31.
249	1894 s.567(1) to (3); 1993 Sch.4 para.32.
250	1894 s.568.
251	1894 s.569(2).
252(1),(2)	1894 s.530.
(3)	1894 s.532.
(4)	1894 s.530(c).
(5)	1894 s.530, proviso (1).
(6),(7),(8)	1894 s.530, proviso (2).
(9)	1894 s.532.
(10)	1894 s.534.
253(1)	1894 s.531(1).
(2) to (4)	1894 s.531(2) to (4); 1988 Sch.5.
254	1894 s.533.
255(1)	1894 ss.510,742.
(2)	Sea Fisheries Act 1968 (c.77) s.17.
(3)	1894 s.570.
256(1)	1894 ss.728; 1971 POP s.18(1)(a),(b); 1993 Sch.4 paras.17(a), final limb, 56.
(2), (3), (4)	1894 ss.724(1); 1906 s.75(1).
(5)	1894 s.724(2); 1906 s.75(4).
(6), (7)	1984 s.7(1), (2).
(8)	1971 POP s.18(2); 1993 Sch.4 para.17(a).
(9)	1894 s.724(1); 1979 s.28(5); 1993 Sch.4 para.56(c).
257	1894 s.723; 1979 Sch.6 Pts.I, VI; 1993 Sch.4 para.6(1).
258(1), (2)	1970 s.76(1); 1979 s.37(5).
(3)	1970 s.76(2).
(4)	1970 s.76(3); S.I. 1989/102 reg.1(3)(b).

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(5)	1970 s.76(4); 1979 Sch.6 Pt.IV.
259(1)	1979 s.27(1); 1971 POP s.18(3); 1984 s.7(3).
(2)	1979 s. 27(1); 1971 POP s.18(3); 1993 Sch.4 para.57.
(3)	1971 POP s.18(5).
(4)	1971 POP s.18(3)(b); 1979 s.28(7)(c).
(5)	1971 POP s.30(3); 1993 Sch.4 para.17(a),(d).
(6)	1971 POP s.18(6); 1993 Sch.4 para.17(b).
(7)	1971 POP s.18(7); 1979 s.27(2).
(8) to (12)	1979 s.27(3) to (7).
260	1979 s.28(1) to (4).
261	1984 ss.1,11, Sch.1.
262	1984 s.2; 1988 Sch.5.
263	1984 s.3.
264	1984 s.4; Courts and Legal Services Act 1990 (c.41) Sch.10 para.55.
265	1984 s.5.
266	1984 s.6.
267	1988 s.33.
268(1), (2)	1970 ss.56(1), (1A); 1988 Sch.6.
(3)	1970 s.56(2); Magistrates' Courts Act 1980 (c.43) Sch.7 para.90.
(4), (5)	1970 s.56(3), (4).
(6)	1970 s.59; 1979 s.43(1) Sch.6 Pt.II.
(7)	1970 s.60.
(8), (9), (10)	1970 s.56(5), (6), (6A); 1988 s.48, Sch.5.
(11)	1970 s.56(7); Magistrates' Courts Act 1980 (c.43) Sch.7 para 90; Magistrates' Courts (Northern Ireland) Order 1981 (SI 1981/1675, Sch.6 Pt.I para.18).
269(1) to (4)	1970 s.57.
(5)	1970 s.60.
270	1970 s.58; 1988 Sch.6.
271(1)	1970 s.61(1).

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(2),(3)	1970 s.61(1A), (1B); 1979 s.29(1).
(4)	1970 s.61(2); 1979 s.28(7)(b).
(5)	1970 s.61(3); 1979 s.29(2).
(6)	1970 s.61(4); Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (c.14) Sch.1 para.1.
272	1970 s.95(1), Sch.2, Pt.I para.5; 1979 s.28(7)(b).
273	1979 s.30(2).
274(1),(2)	1894 s.683(1); 1971 POP s.19(4); 1979 s.42(1), 1993 Sch.4 para.59.
(3),(4)	1979 s.42(2), (3).
(5)	1979 s.42(5).
275	1894 s.683(2); 1993 Sch.4 para.59.
276	1894 s.703(b); 1979 Sch.6 Pt.VII para.14.
277	1894 s.687A; 1993 Sch.4 para.63.
278	1894 s.687B; 1993 Sch.4 para.63.
279	1894 s.684; 1971 POP s.19(5); 1993 Sch.4 para.60.
280	1894 s.685.
281	1894 s.686(1); 1993 Sch.4 para.61.
282	1894 s.687; 1993 Sch.4 para.62.
283(1),(2)	1894 s.689(1); 1970 Sch.3 para.2.
(3) to (5)	1894 s.689(2); 1993 Sch.4 para.64.
(6)	1894 s.689(3).
(7)	1894 s.689(4); 1979 Sch.6 Pt.IV.
(8)	1894 s.689 (5).
(9)	1894 s.689(2),(4).
284(1) to (3)	1894 s.692(1); 1979, Sch.6 Pt.VII para.10.
(4), (5)	1894 s.692(2); 1979, Sch.6 Pt.VII para.11.
(6), (7)	1894 s.692(3), (4).
(8)	1894 s.692(5); 1988 Sch.6.
285	1894 s.693; 1993 Sch.4 para.65.
286(1),(2)	1894 s.691(1),(2).
(3)	1894 s.691(3).

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(4)	1894 s.691(1).
(5)	1894 s.691(4) part.
287	1894 s.256(1); 1970 s.75.
288(1)	1894 s.695(1) 1970 Sch.3 para.3.
(2),(3)	1894 s.695(2); 1970 Sch.3 para.3; Merchant Shipping Act (Safety Conventions) 1949 (c.43) s.33(2), Sch.2; 1993 Sch.4 para.67(a).
(4)	1894 s.695(2)(b); 1949 <i>ibid</i> , 1993 Sch.4 para.67(a).
(5)	1894 ss.695(3), 680(1)(a); 1993 Sch.4 para.67(b).
(6),(7)	1894 s.695(4),(5); 1993 Sch.4 para.72.
(8)	1894 s.695(3A); 1993 Sch.4 para.67(c).
289	1970 s.75A; 1988 Sch.5.
290(1),(2)	1894 s.697.
(3)	1894 s.697(2); 1993 Sch.4 para.69.
291	1894 s.696; 1993 s.9(3), Sch.4 para.68.
292(1)	1894 s.713.
(2)	1894 s.717.
293	1994 s.8.
294	1906 s.78.
295(1) to (3)	1970 s.80(1).
(4)	1970 s.80(2).
(5)	1993 s.1(3).
296	1970 s.81.
297(1)	1970 s.82(1).
(2)	1970 s.82(1A); Judicial Pensions and Retirement Act 1993 (c.8) Sch.6 para.59.
(3)	1970 s.82(2).
(4),(5)	1970 s.83.
298	1894 s.256(1).
299(1),(2)	1894 s.714.
(3)	1894 s.715.
(4) to (6)	1894 s.726; 1979 Sch.6 Pt.II.
300(1) to (6)	1894 s.720.

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(7)	1894 s.722(2)(b); 1979 Sch.6 Pt.I.
(8)	1894 s.722 (1); 1993 Sch.4 para.73.
301	1906 s.79.
302(1),(3)	1993 Sch.4 para.79.
(2)	Merchant Shipping (Safety Convention) Act 1949 (c.43) s.33(2), Sch.2 (1894 s.83).
303	1894 s.718; 1898 s.1(1)(b).
304(1)(a)	1894 s.662B; 1970 s.98(1); 1970 FV s.10; 1971 POP s.28(1); 1979 ss.23(1)(f), 51(1); 1984 s.10; 1988 s.55(1).
(b)	1894 s.677(1)(b),(d); 1988 Sch.5.
(c)	Merchant Shipping (Safety Conventions) Act 1949 (c.43) s.25.
(d)	1894 s.677(1)(g).
(e)	1894 s.677(1)(f).
(f)	1894 s.677(1)(h).
(g)	1894 s.677(1)(l); Merchant Shipping Repeal Act 1854 (c.120) s.7.
(h)	1894 s.677(1)(o); 1988 Sch.5.
(2)	1949 <i>ibid</i> ; Merchant Shipping (Safety Convention) Act 1977 (c.24) s.1(2).
305(1)(a)	1894 s.676(1)(a); 1988 Sch.5.
(b)	1894 s.676 (1)(h).
(c)	1894 s.676(1)(l); 1988 Sch.5.
(2)	1894 s.676(2).
306	1894 s.739(1); Merchant Shipping (Load Lines) Act 1967(c.27) s.30(3); 1970 s.99; 1970 FV s.7; 1971 POP s.27; 1974 s.17(2); 1979 ss.23(4), 41(2), 49; Safety at Sea Act 1986 (c.23) s.9(2),(3); 1988 s.53(1); 1993 Sch.4 para.1(2).
307	1993 Sch.4 para.5.
308	1894 s.738(2), s.741; 1906 s.80; 1993 Sch.2 para.3.
309	1988 s.47; 1993 Sch.2 para.15(3).
310	1970 Sch.3 para.13; 1971 s.17; 1971 POP s.31; 1979 s.48; 1984 s.9; 1988 s.49.
311	1979 s.41(1).

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312(1)	1894 s.710; 1993 Sch.4 para.76.
(2)	1911 MC s.5.
313	1894 s.742; 1993, Sch.4 para.2(1),(2).
314(1) to (3)	
(4)	1993 s.10(6).
315(2) to (5)	1993 s.9(3), Sch.4 para.4(1) to (5).
316	
Sch. 1	1993 s.6(1), Sch.1.
Sch. 2	1974 s.17(3), Sch.5; 1979 Sch.6 Pt.VI para.20.
Sch. 3	Merchant Shipping (Load Lines) Act 1967 (c.27)
paras.1,2	ss.1,2.
3	s.3; 1979 Sch.6 Pt.V, 1993 Sch.4 para.12(6).
4	s.4; 1979 Sch.6 Pt.V, Pt.VII para.7.
5	s.5; 1979 Sch.6 Pt.IV.
6 to 9	ss.6 to 9.
10	s.10; 1970 Sch.3 para.12.
11	s.11(1).
12	s.12.
13	s.13; 1979 Sch.6 Pt.V, 1993 Sch.4 para.12(6).
14 to 16	ss.14 to 16.
17	s.17; 1993 Sch.4 para.12(6).
18 to 22	ss.18 to 22.
23	s.23; 1995 SC reg.1(7).
24	s.24; 1979 Sch.6 Pt.IV.
25	s.27(1).
26	s.27(3); 1894 s.280(1), (2).
27	s.27(3); 1894 s.282.
28	s.27(5).
29	s.31.
30	s.30(1).
31	s.32(1) to (7).
Sch. 4	

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### Chap.III

152	1971 s.19.
153	1971 s.1.
154	1971 s.1A; 1994 Sch.3 Pt.I para.1.
155	1971 s.2.
155A	1971 s.2A; 1994 Sch.3 Pt.I para.2.
156	1971 s.3.
156A	1971 s.3A; 1994 Sch.3 Pt.I para.3.
157	1971 s.4; 1979 s.38(1)(a),(b); 1984 s.12(2).
158	1971 s.5; 1979 s.38(2); 1979 Sch.5 para.6(1).
159	1971 s.6.
160	1971 s.7; 1979 Sch.5 para.6(1).
161	1971 s.8.
162	1971 s.9; 1994 Sch.3 Pt.I para.4.
163	1971 s.10; 1979 s.38(3).
164	1971 s.11; 1979 s.38(3).
165	1971 s.12.
166	1971 s.13; [ <sup>F351</sup> Senior Courts Act 1981] (c.54) Sch.5.
167	1971 s.14; 1979 s.38(3).
168	1971 s.15(2); 1979 Sch.5 para.6(2); 1994 Sch.3 Pt.I para.5.
169	1971 s.16.
170	1971 s.20; 1994 Sch.3 Pt.I para.6.

### Chap.IV

172	1974 s.1(1),(2).
173	1974 s.2; 1979 s.38(4)(b); 1982 CJ s.38(9), Companies Consolidation (Consequential Provisions) Act 1985 (c.9) Sch.2, Companies Consolidation (Consequential Provisions) Order 1986 (SI 1986/1035 (N.I.9)), Sch.1 Pt.II.
174	1974 s.3; 1979 Sch.6 Pt.IV; 1979 Sch.6 Pt.VI para.18.
175	1974 s.4(4) to (9)
176	1974 s.4(10) to (13); 1979 s.38(4)(b), (c).

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176A	1974 s.5; 1979 s.38(4)(d),(e).
177	1974 s.6; 1979 s.38(4)(b); [ <sup>F351</sup> Senior Courts Act 1981] (c.54) Sch.5.
178	1974 s.7.
179	1974 s.8; 1994 s.7(1).
181	1974 ss.1(3),(4),(5), 23(2).
Sch. 5	
Part I	1974 Sch.1; 1988 Sch.4 Pt.II para.24; 1994 s.5(2)(a).
Part II	1974 Sch.1; 1979 s.38(4)(g).
Sch. 6	
Part I	1979 Sch.3 Pts.I, III.
Part II	1979 Sch.3 Pts.II, III.
Sch. 7	
Part I	1979 Sch.4, Pt.I.
Part II	1979 s.49(5), Sch.4, Pt.II; 1995 SC reg.1(8).
Sch. 8	1894 s.668; 1974 s.18, 1979 s.33(2), Local Government (Scotland) Act 1994 (c.39) Sch.13 para.7.
Sch. 9	Ports Act 1991 (c.52) s.32.
Sch. 10	Harbours Act 1964 (c.40) s.35.
Sch. 11	
Part I	1994 Sch.1, Pt.I.
Part II	1994 Sch.1, Pt.II.
Sch. 12	
Sch. 13	
Sch. 14	
para.2	1993 s.9(4).
3	Merchant Shipping Act 1948 (c.44) s.5.
4	1979 s.37(2),(3).
7	1993 Sch.5; saving.
8	1979 s.38(6).
9	1894 s.669; 1979 s.36(3).
10	1894 s.571.
11	1894 s.745(1)(f).

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**Status:** Point in time view as at 01/04/2015. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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**Textual Amendments**

**F351** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

**Status:**

Point in time view as at 01/04/2015. This version of this Act contains provisions that are prospective.

**Changes to legislation:**

Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.