



Merchant Shipping and Maritime Security Act 1997

CHAPTER 28

MERCHANT SHIPPING AND MARITIME SECURITY ACT 1997

Extension of powers to deal with emergencies at sea

- 1 Temporary exclusion zones
- 2 Powers of intervention where shipping accident threatens pollution
- 3 Powers of intervention in cases of pollution by substances other than oil
- 4 Powers of fire authorities

Pollution control and marine safety

- 5 Waste reception facilities at harbours
- 6 Indemnities in connection with counter-pollution measures
- 7 Increased penalty for causing pollution, etc
- 8 Safety regulations
- 9 Inspection and detention of ships
- 10 Power to require ships to be moved
- 11 Ships receiving trans-shipped fish
- 12 Preparation of plans under International Convention on Oil Pollution Preparedness, Response and Co-operation

Funding of maritime services

- 13 Funding of maritime services

Liability and compensation

- 14 Carriage of hazardous and noxious substances
- 15 Limitation of liability

16 Compulsory insurance

Miscellaneous amendments of Merchant Shipping Act 1995

- 17 Financial assistance for training
- 18 Discharge books
- 19 Powers of general lighthouse authorities
- 20 Disclosure of information to general lighthouse authorities
- 21 Certain duties not to apply to RNLi
- 22 Disposal of unclaimed wreck
- 23 Retention of documents by Registrar General

Protection of wrecks

- 24 Implementation of international agreements relating to protection of wrecks

Maritime security, etc.

- 25 Amendments of Aviation and Maritime Security Act 1990
- 26 Piracy

International bodies concerned with maritime matters

- 27 Application of s. 1 of International Organisations Act 1968 to International Oil Pollution Compensation Fund
- 28 International Tribunal for the Law of the Sea

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- 29 Minor and consequential amendments, etc
- 30 Extent and application
- 31 Short title, interpretation and commencement

SCHEDULES**SCHEDULE 1 — Amendments of Merchant Shipping Act 1995 relating to inspection and detention of ships***Meaning of “dangerously unsafe ship”*

- 1 (1) Section 94 of the 1995 Act (meaning of “dangerously...

Power to detain dangerously unsafe ship

- 2 (1) Section 95 of the 1995 Act (power to detain...

Fishing vessel without appropriate certificate

- 3 In section 125 of the 1995 Act (prohibition on fishing...

Power to inspect ships and their equipment

- 4 (1) Section 258 of the 1995 Act (powers to inspect...

Enforcing detention of ships

5 (1) Section 284 of the 1995 Act (enforcing detention of...

Powers of detention under provisions relating to load lines

6 (1) Schedule 3 to the 1995 Act (load lines) is...

SCHEDULE 2 — Funding of maritime services

1 After section 302 of the 1995 Act there is inserted—...

2 After Schedule 11 to the 1995 Act there is inserted—...

SCHEDULE 3 — Provisions to be inserted as Schedule 5A to the Merchant Shipping Act 1995

Text of International
Convention on
Liability and
Compensation for
Damage in Connection
with the Carriage
of Hazardous and
Noxious Substances by
Sea

Chapter I — GENERAL PROVISIONS

DEFINITIONS

Article 1

1 “Ship” means any seagoing vessel and seaborne craft, of any...

2 “Person” means any individual or partnership or any public or...

3 “Owner” means the person or persons registered as the owner...

4 “Receiver” means either: (a) the person who physically receives
contributing...

5 “Hazardous and noxious substances” (HNS) means: (a) any substances,
materials...

6 “Damage” means: (a) loss of life or personal injury on...

7 “Preventive measures” means any reasonable measures taken by any
person...

8 “Incident” means any occurrence or series of occurrences having the...

9 “Carriage by sea” means the period from the time when...

10 “Contributing cargo” means any hazardous and noxious substances
which are...

11 The “HNS Fund” means the International Hazardous and Noxious
Substances...

12 “Unit of account” means the Special Drawing Right as defined...

13 “State of the ship’s registry” means in relation to a...

14 “Terminal” means any site for the storage of hazardous and...

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***SCOPE OF APPLICATION***Article 3*

This Convention shall apply exclusively: (a) to any damage caused...

Article 4

- 1 This Convention shall apply to claims, other than claims arising...
- 2 This Convention shall not apply to the extent that its...
- 3 This Convention shall not apply: (a) to pollution damage as...
- 4 Except as provided in paragraph 5, the provisions of this...
- 5 A State Party may decide to apply this Convention to...
- 6 With respect to ships owned by a State Party and...

Article 5

- 1 A State may, at the time of ratification, acceptance, approval...
- 2 Where two neighbouring States agree that this Convention does not...
- 3 Any State which has made the declaration under paragraph 1...
- 4 A declaration made under paragraph 1 or 2, and the...
- 5 Where a State has made a declaration under paragraph 1...
- 6 The HNS Fund is not liable to pay compensation for...

DUTIES OF STATE PARTIES*Article 6***Chapter II — LIABILITY****LIABILITY OF THE OWNER***Article 7*

- 1 Except as provided in paragraphs 2 and 3, the owner...
- 2 No liability shall attach to the owner if the owner...
- 3 If the owner proves that the damage resulted wholly or...
- 4 No claim for compensation for damage shall be made against...
- 5 Subject to paragraph 6, no claim for compensation for damage...
- 6 Nothing in this Convention shall prejudice any existing right of...

INCIDENTS INVOLVING TWO OR MORE SHIPS*Article 8*

- 1 Whenever damage has resulted from an incident involving two or...
- 2 However, owners shall be entitled to the limits of liability...

3 Nothing in this article shall prejudice any right of recourse...

LIMITATION OF LIABILITY

Article 9

1 The owner of a ship shall be entitled to limit...
2 The owner shall not be entitled to limit liability under...
3 The owner shall, for the purpose of benefitting from the...
4 Subject to the provisions of article 11, the fund shall...
5 If before the fund is distributed the owner or any...
6 The right of subrogation provided for in paragraph 5 may...
7 Where owners or other persons establish that they may be...
8 Claims in respect of expenses reasonably incurred or sacrifices
reasonably...
9 (a) The amounts mentioned in paragraph 1 shall be converted...
10 For the purpose of this article the ship's tonnage shall...
11 The insurer or other person providing financial security shall be...

Article 10

1 Where the owner, after an incident, has constituted a fund...
2 The foregoing shall, however, only apply if the claimant has...

DEATH AND INJURY

Article 11

COMPULSORY INSURANCE OF THE OWNER

Article 12

1 The owner of a ship registered in a State Party...
2 A compulsory insurance certificate attesting that insurance or other
financial...
3 The compulsory insurance certificate shall be in the official language...
4 The compulsory insurance certificate shall be carried on board the...
5 An insurance or other financial security shall not satisfy the...
6 The State of the ship's registry shall, subject to the...
7 Compulsory insurance certificates issued or certified under the authority
of...
8 Any claim for compensation for damage may be brought directly...
9 Any sums provided by insurance or by other financial security...
10 A State Party shall not permit a ship under its...
11 Subject to the provisions of this article, each State Party...
12 If insurance or other financial security is not maintained in...
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...
- 2 The HNS Fund shall in each State Party be recognized...

COMPENSATION*Article 14*

- 1 For the purpose of fulfilling its function under article 13,...
- 2 Expenses reasonably incurred or sacrifices reasonably made by the owner...
- 3 The HNS Fund shall incur no obligation under the preceding...
- 4 If the HNS Fund proves that the damage resulted wholly...
- 5 (a) Except as otherwise provided in subparagraph (b), the aggregate...
- 6 Where the amount of established claims against the HNS Fund...
- 7 The Assembly of the HNS Fund may decide that, in...

RELATED TASKS OF THE HNS FUND*Article 15*

For the purpose of fulfilling its function under article 13,...

GENERAL PROVISIONS ON CONTRIBUTIONS*Article 16*

- 1 The HNS Fund shall have a general account, which shall...
- 2 The HNS Fund shall, subject to article 19, paragraphs 3...
- 3 There shall be initial contributions and, as required, annual contributions...
- 4 Contributions to the HNS Fund shall be made into the...
- 5 For the purposes of article 18, article 19, paragraph 1(a)(i),...
- 6 “Associated person” means any subsidiary or commonly controlled entity. The...

GENERAL PROVISIONS ON ANNUAL CONTRIBUTIONS*Article 17*

- 1 Annual contributions to the general account and to each separate...
- 2 Annual contributions payable pursuant to articles 18, 19 and article...
- 3 The Assembly shall decide the total amount of annual contributions...
- 4 The Assembly may also levy annual contributions for administrative costs...
- 5 The Assembly shall also decide on the distribution between the...

ANNUAL CONTRIBUTIONS TO THE GENERAL ACCOUNT

Article 18

- 1 Subject to article 16, paragraph 5, annual contributions to the...
- 2 Annual contributions shall also be payable to the general account...

ANNUAL CONTRIBUTIONS TO SEPARATE ACCOUNTS

Article 19

- 1 Subject to article 16, paragraph 5, annual contributions to separate...
- 2 Subject to paragraph 3, the separate accounts referred to in...
- 3 The initial operation of a separate account referred to in...
- 4 The Assembly may suspend the operation of a separate account...
- 5 The Assembly may reinstate the operation of a separate account...
- 6 Any person who would be liable to pay contributions to...

INITIAL CONTRIBUTIONS

Article 20

- 1 In respect of each State Party, initial contributions shall be...
- 2 The fixed sum and the units for the different sectors...
- 3 Initial contributions shall be paid within three months following the...

REPORTS

Article 21

- 1 Each State Party shall ensure that any person liable to...
- 2 For the purposes set out in paragraph 1, each State...
- 3 For the purposes of ascertaining who are, at any given...
- 4 Where a State Party does not fulfil its obligations to...
- 5 In respect of contributing cargo carried from one port or...

NON-PAYMENT OF CONTRIBUTIONS

Article 22

- 1 The amount of any contribution due under articles 18, 19,...
- 2 Where a person who is liable to pay contributions in...

OPTIONAL LIABILITY OF STATES PARTIES FOR THE PAYMENT OF CONTRIBUTIONS

Article 23

- 1 Without prejudice to article 21, paragraph 5, a State Party...
- 2 Where a declaration under paragraph 1 is made prior to...
- 3 A declaration under paragraph 1 which is made after the...
- 4 A declaration made in accordance with this article may be...
- 5 Any State which is bound by a declaration made under...

ORGANIZATION AND ADMINISTRATION

Article 24

ASSEMBLY

Article 25

Article 26

The functions of the Assembly shall be:

Article 27

- 1 Regular sessions of the Assembly shall take place once every...
- 2 Extraordinary sessions of the Assembly shall be convened by the...

Article 28

SECRETARIAT

Article 29

- 1 The Secretariat shall comprise the Director and such staff as...
- 2 The Director shall be the legal representative of the HNS...

Article 30

- 1 The Director shall be the chief administrative officer of the...
- 2 The Director shall in particular: (a) appoint the personnel required...

Article 31

FINANCES

Article 32

- 1 Each State Party shall bear the salary, travel and other...
- 2 Any other expenses incurred in the operation of the HNS...

VOTING

Article 33

The following provisions shall apply to voting in the Assembly:...

Article 34

The following decisions of the Assembly shall require a two-thirds...

TAX EXEMPTIONS AND CURRENCY REGULATIONS

Article 35

- 1 The HNS Fund, its assets, income, including contributions, and other...
- 2 When the HNS Fund makes substantial purchases of movable or...
- 3 No exemption shall be accorded in the case of duties,...
- 4 The HNS Fund shall enjoy exemption from all customs duties,...
- 5 Persons contributing to the HNS Fund as well as victims...
- 6 Notwithstanding existing or future regulations concerning currency or transfers, States...

CONFIDENTIALITY OF INFORMATION

Article 36

Chapter IV — CLAIMS AND ACTIONS

LIMITATION OF ACTIONS

Article 37

- 1 Rights to compensation under chapter II shall be extinguished unless...
- 2 Rights to compensation under chapter III shall be extinguished unless...
- 3 In no case, however, shall an action be brought later...
- 4 Where the incident consists of a series of occurrences, the...

JURISDICTION IN RESPECT OF ACTION AGAINST THE OWNER

Article 38

- 1 Where an incident has caused damage in the territory, including...
- 2 Where an incident has caused damage exclusively outside the territory,...
- 3 Reasonable notice of any action taken under paragraph 1 or...
- 4 Each State Party shall ensure that its courts have jurisdiction...
- 5 After a fund under article 9 has been constituted by...

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...
- 2 In the event that the ship carrying the hazardous or...
- 3 Each State Party shall ensure that its courts have jurisdiction...
- 4 Where an action for compensation for damage has been brought...
- 5 Each State Party shall ensure that the HNS Fund shall...
- 6 Except as otherwise provided in paragraph 7, the HNS Fund...
- 7 Without prejudice to the provisions of paragraph 5, where an...

RECOGNITION AND ENFORCEMENT

Article 40

- 1 Any judgement given by a court with jurisdiction in accordance...
- 2 A judgement recognized under paragraph 1 shall be enforceable in...
- 3 Subject to any decision concerning the distribution referred to in...

SUBROGATION AND RECOURSE

Article 41

- 1 The HNS Fund shall, in respect of any amount of...
- 2 Nothing in this Convention shall prejudice any rights of recourse...
- 3 Without prejudice to any other rights of subrogation or recourse...

SUPERSESSION CLAUSE

Article 42

Chapter V — TRANSITIONAL PROVISIONS

INFORMATION ON CONTRIBUTING CARGO

Article 43

FIRST SESSION OF THE ASSEMBLY

Article 44

Chapter VI — FINAL CLAUSES

SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

Article 45

- 1 This Convention shall be open for signature at the Headquarters...
- 2 States may express their consent to be bound by this...
- 3 Ratification, acceptance, approval or accession shall be effected by the...

ENTRY INTO FORCE

Article 46

- 1 This Convention shall enter into force eighteen months after the...
- 2 For a State which expresses its consent to be bound...

REVISION AND AMENDMENT

Article 47

- 1 A conference for the purpose of revising or amending this...
- 2 The Secretary-General shall convene a conference of the States Parties...
- 3 Any consent to be bound by this Convention expressed after...

AMENDMENT OF LIMITS

Article 48

- 1 Without prejudice to the provisions of article 47, the special...
- 2 Upon the request of at least one half, but in...
- 3 Any amendment proposed and circulated as above shall be submitted...
- 4 All Contracting States, whether or not Members of the Organization,...
- 5 Amendments shall be adopted by a two-thirds majority of the...
- 6 When acting on a proposal to amend the limits, the...
- 7 (a) No amendment of the limits under this article may...
- 8 Any amendment adopted in accordance with paragraph 5 shall be...
- 9 An amendment deemed to have been accepted in accordance with...
- 10 All Contracting States shall be bound by the amendment, unless...
- 11 When an amendment has been adopted but the eighteen month...

DENUNCIATION

Article 49

- 1 This Convention may be denounced by any State Party at...
- 2 Denunciation shall be effected by the deposit of an instrument...
- 3 Denunciation shall take effect twelve months, or such longer period...
- 4 Notwithstanding a denunciation by a State Party pursuant to this...

EXTRAORDINARY SESSIONS OF THE ASSEMBLY

Article 50

- 1 Any State Party may, within ninety days after the deposit...
- 2 The Director may take the initiative to convene an extraordinary...
- 3 If the Assembly, at an extraordinary session, convened in accordance...

CESSATION

Article 51

- 1 This Convention shall cease to be in force:
- 2 States which are bound by this Convention on the day...

WINDING UP OF THE HNS FUND

Article 52

- 1 If this Convention ceases to be in force, the HNS...

- 2 The Assembly shall take all appropriate measures to complete the...
- 3 For the purposes of this article the HNS Fund shall...

DEPOSITARY

Article 53

- 1 This Convention and any amendment adopted under article 48 shall...
- 2 The Secretary-General shall: (a) inform all States which have signed...
- 3 As soon as this Convention enters into force, a certified...

LANGUAGES

Article 54

SCHEDULE 4 — Amendments of Part III of Aviation and Maritime Security Act 1990

- 1 Part III of the Aviation and Maritime Security Act 1990...

Meaning of “harbour area”

- 2 In section 18 (purposes to which Part III applies), for...

Designation of restricted zones

- 3 (1) Section 20 (designation of restricted zones of harbour areas)...

Power to promote searches

- 4 (1) Section 22 (power to require harbour authorities to promote...
- 5 In section 23 (power to require other persons to promote...

Removal of firearms

- 6 In section 26(1) (direction not to require or authorise any...

Inspection of ships and harbour areas

- 7 In section 36(2) (powers of authorised person on inspection of...

False statements

- 8 In section 37 (false statements relating to baggage, cargo etc.),...
- 9 In section 38 (false statements in connection with identity documents),...

Unauthorised presence in restricted zone

- 10 (1) Section 39 (unauthorised presence in restricted zone) is amended...

Meaning of “harbour”, “harbour authority” etc.

- 11 (1) Section 46 (interpretation of Part III) is amended as...

SCHEDULE 5 — Provisions of United Nations Convention on the Law of the Sea to be treated as part of the law of nations

Article 101

Definition of piracy

Article 102

Piracy by a warship, government ship or government aircraft whose crew has mutinied

Article 103

Definition of a pirate ship or aircraft

SCHEDULE 6 — Minor and consequential amendments

The Hovercraft Act 1968 (c. 59)

- 1 In section 1(1)(i)(ii) of the Hovercraft Act 1968 (power to...

The Supreme Court Act 1981 (c. 54)

- 2 In section 20 of the Supreme Court Act 1981 (Admiralty...

The Merchant Shipping Act 1995 (c. 21)

- 3 (1) Section 128 of the 1995 Act (prevention of pollution...
4 (1) With respect to applications made after the commencement of...
5 In section 170 of the 1995 Act (interpretation of provisions...
6 In section 193 of the 1995 Act (general and local...
7 In section 197 of the 1995 Act (general powers of...
8 In section 201 of the 1995 Act (powers of harbour...
9 Section 202 of and Schedule 9 to the 1995 Act...
10 In section 203 of the 1995 Act (individual transfers of...
11 In section 204 of the 1995 Act (surrender of local...
12 In section 205 of the 1995 Act (light dues leviable...
13 In section 210 of the 1995 Act (light dues leviable...
14 In section 232 (duty of receiver where vessel in distress),...
15 In section 256 (appointment of inspectors and surveyors), in
subsection...
16 In section 261 (improvement notices), in subsection (4)(a), after “130”...
17 In section 293 (functions of Secretary of State in relation...
18 (1) Section 306 of the 1995 Act (regulations, rules and...
19 (1) Section 313 of the 1995 Act (interpretation) is amended...
20 After section 313 of the 1995 Act there is inserted—...

SCHEDULE 7 — Repeals and revocations

Part I — REPEALS

Part II — REVOCATIONS