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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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## SCHEDULES

### SCHEDULE 3

#### PROVISIONS TO BE INSERTED AS SCHEDULE 5A TO THE MERCHANT SHIPPING ACT 1995

#### CHAPTER IV

#### CLAIMS AND ACTIONS

##### 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.
- 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.