

SCHEDULE

Section 4

CIVIL LIABILITY: SUPPLEMENTARY

Financial limits

- 1 (1) Sections 2 and 3 do not require payment, in any case, of an amount exceeding the limits specified in this paragraph.
- (2) For an environmental emergency arising from an event involving a ship, the limits are—
 - (a) for a ship with a tonnage not exceeding 2,000 tons, one million SDR;
 - (b) for a ship with a tonnage exceeding 2,000 tons, one million SDR for the first 2,000 tons and—
 - (i) 400 SDR for each ton from 2,001 to 30,000 tons,
 - (ii) 300 SDR for each ton from 30,001 to 70,000 tons, and
 - (iii) 200 SDR for each ton over 70,000 tons.
- (3) For an environmental emergency arising from an event not involving a ship, the limit is three million SDR.
- (4) The Secretary of State may by order make such amendments to the limits specified in sub-paragraphs (2) and (3) as appear to the Secretary of State appropriate for the purpose of giving effect to any amendments to the limits specified in Article 9(1) of Annex VI which are made pursuant to Article 9(4) of that Annex.
- (5) The limits in this paragraph do not apply in a case where the environmental emergency arose from an act or omission of a person which was committed—
 - (a) with the intention of causing an environmental emergency, or
 - (b) recklessly and with knowledge that an environmental emergency would probably result.
- (6) In this paragraph—
 - “SDR” means special drawing rights;
 - “ship” means—
 - (a) any vessel, and
 - (b) any fixed or floating platform which is not a vessel;
 - “vessel” has the same meaning as in the Antarctic Act 1994 (see section 31(1) of that Act).
- (7) For the purposes of any proceedings under section 2 or 3, one SDR is to be treated as such amount in sterling as the International Monetary Fund has fixed as its equivalent—
 - (a) for the day when liability to make the payment is determined by the court in those proceedings, or
 - (b) if no amount has been so fixed for that day, for the last day before that day for which an amount has been so fixed.
- (8) For the purposes of this paragraph, a ship’s tonnage is its gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969 (as those rules have effect from time to time in relation to the United Kingdom).

Status: This is the original version (as it was originally enacted).

- 2 (1) Sub-paragraphs (2) and (3) have effect in any case where—
- (a) paragraph 1, and
 - (b) the provisions set out in Schedule 7 to the Merchant Shipping Act 1995 (Convention on Limitation of Liability for Maritime Claims 1976),
- would apply in relation to any liability under section 2 or 3.
- (2) If the application of paragraph 1 would produce the result that the amount for which a person is liable under sections 2 and 3 is lower than that for which the person would otherwise be liable, paragraph 1 does not apply.
- (3) If the application of the provisions referred to in sub-paragraph (1)(b) would produce the result that the amount for which a person is liable under sections 2 and 3 is lower than that for which the person would otherwise be liable, those provisions do not apply.

Joint and several liability

- 3 In a case where an environmental emergency arises from activities organised by two or more persons, liability is joint and several; but no person is liable under section 2 or 3 in respect of any part of an environmental emergency not arising from activities organised by that person.

Double recovery

- 4 A person is not liable under section 2 or 3 to make a payment in respect of any costs if or to the extent that the person or another person has made a payment in respect of those costs—
- (a) under one of those sections;
 - (b) pursuant to Articles 6 and 7 of Annex VI as applied in the law of another Party to Annex VI.

Interaction with Part 9 of the Merchant Shipping Act 1995

- 5 (1) A person is not liable to make a payment under section 2 to Her Majesty's Government or a Party to Annex VI in respect of any costs if or to the extent that the person has made a payment to that Government or Party in respect of those costs under Part 9 of the Merchant Shipping Act 1995 (salvage and wreck); and vice versa.
- (2) Where a person liable to make a payment under section 2 to Her Majesty's Government or a Party to Annex VI is also liable to make a payment to another person under Part 9 of the Merchant Shipping Act 1995 in respect of action taken pursuant to the same environmental emergency, the amount which a person is liable to pay under that section is reduced by the amount the person is liable to pay under that Part.
- (3) Where a person liable to make a payment under section 3 to the Antarctic Environmental Liability Fund is also liable to make a payment to a person under Part 9 of the Merchant Shipping Act 1995 in respect of action taken pursuant to the same environmental emergency, the amount which the person is liable to pay under that section is to be reduced by the amount the person is liable to pay under that Part.