

SCHEDULE 3

Article 5

The text of Article XII bis of the 1992 Liability Convention and Article 36 bis of the 1992 Fund Convention, as modified by Schedule 2 of this Order:

Article XII bis

transitional provisions

The following transitional provisions shall apply when at the time of an incident the United Kingdom is Party both to the 1992 Liability Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of sections 152 to 170 of the Act, liability under sections 152 to 170 of the Act shall be deemed to be discharged if, and to the extent that, it also arises under sections 152 to 170 in Schedule 4 to the Act;
- (b) where an incident has caused pollution damage within the scope of sections 152 to 170 of the Act and the United Kingdom is a Party both to the 1992 Liability Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of sub-paragraph (a) of this Article shall arise under sections 152 to 170 of the Act only to the extent that pollution damage remains uncompensated after application of sections 172 to 181 in Schedule 4 to the Act;
- (c) subsection (1)(i) of section 156 of the Act refers to liability under section 153 of the Act or under section 153 in Schedule 4 to the Act, as appropriate and subsection (1)(ii) of section 156 applies to the persons referred to in section 156(2) of the Act or section 156(b) in Schedule 4 to the Act, as appropriate;
- (d) in the application of section 158 of the Act the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with sub-paragraph (a) of this Article.

Article 36 bis

The following transitional provisions shall apply from the date of entry into force of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 to the date on which the Order ceases to have effect:

- (b) Where an incident has caused pollution damage within the scope of sections 172 to 181 of the Act, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of sections 152 to 170 of the Act as set out in Schedule 4 to the Act, sections 172 to 181 of the Act as set out in the said Schedule 4 and sections 152 to 170 of the Act, provided that, in respect of a Party to this Convention but not a Party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been Party to each of the 1969 Liability Convention, the 1992 Liability Convention and the 1971 Fund Convention.
- (c) In the application of Part I of Schedule 5 to the Act the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under the sections 152 to 170 of the Act as set out in Schedule 4 to the Act, if any, and the amount of compensation actually paid or deemed to have been paid under sections 172 to 181 of the Act as set out in Schedule 4.

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- (d) Section 179(1) of the Act shall also apply to the rights enjoyed under sections 152 to 170 of the Act as set out in Schedule 4 to the Act.