

SCHEDULE TO THE ORDER

THE MERCHANT SHIPPING ACT 1995 PREVENTION OF POLLUTION PART VI CHAPTER III LIABILITY FOR OIL POLLUTION

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 oil of a description specified in regulations made by the Administrator.

(2) The ship shall not enter or leave a port in the Sovereign Base Areas or arrive at or leave a terminal in the territorial sea of the Sovereign Base Areas nor, if the ship is registered in the Sovereign Base Areas, 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 registered in the Sovereign Base Areas, a certificate issued by the Administrator;
- (b) if the ship is registered in a Liability Convention country other than the Sovereign Base Areas, 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 Administrator or by or under the authority of the government of any Liability Convention country other than the Sovereign Base Areas.

(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.

(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 owner shall be liable on conviction on information to a fine, or on summary conviction to a fine not exceeding 40,000 Cyprus pounds.

(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 2,000 Cyprus pounds.

(7) If a ship attempts to leave a port in the Sovereign Base Areas in contravention of this section the ship may be detained.

Issue of certificate by Administrator.

164.—(1) Subject to subsection (2) below, if the Administrator is satisfied, on the application for such a certificate as is mentioned in section 163 in respect of a ship registered in the Sovereign Base Areas or 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 Administrator shall issue such a certificate to the owner.

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(2) If the Administrator 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 certificate.

(3) The Administrator 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 2,000 Cyprus pounds.

(5) The Administrator shall send a copy of any certificate issued by him under this section in respect of a ship registered in the Sovereign Base Areas to the Chief Officer, Sovereign Base Areas Administration and the Chief Officer shall make the copy available for public inspection.

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, 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 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, or (as the case may be) the threat of contamination, 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, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 157(3).

(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) . . .