

**SCHEDULE TO
THE ORDER**

THE MERCHANT SHIPPING ACT 1995

PART VI

PREVENTION OF POLLUTION

CHAPTER IV

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

Contributions to Fund

Contributions by importers of oil and others.

173.—(1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in the Virgin Islands otherwise than on a voyage only within waters landward of the baselines for measuring the breadth of the territorial sea of the Virgin Islands.

(2) Subsection (1) above applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in the Virgin Islands after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions is –

- (a) in the case of oil which is being imported into the Virgin Islands, the importer, and
- (b) otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.

(6) For the purpose of subsection (5) above –

- (a) all the members of a group of companies shall be treated as a single person, and
- (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall –

- (a) be of such amount as may be determined by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;
- (b) be payable in such instalments, becoming due at such times, as may be so notified to him;

and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Governor may by regulations impose on persons who are or may be likely to pay contributions under this section obligations to give security for payment to the Governor, or the Fund.

(9) Regulations under subsection (8) above –

- (a) may contain such supplemental or incidental provisions as appear to the Governor expedient,

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- (b) may impose penalties for contravention for the regulations punishable on summary conviction by a fine not exceeding \$20,000 or such lower limit as may be specified in the regulations.
- (10) In this section and in section 174, unless the context otherwise requires –
 - “company” means a body incorporated under the law of the Virgin Islands, or of any other country;
 - “group” in relation to companies, means a holding company and any subsidiary or commonly controlled entity, subject, in the case of a company incorporated outside the Virgin Islands, to any necessary modifications of those definitions;
 - “importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;
 - “oil” means crude oil and fuel oil, and
 - (a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes –
 - (i) crude oil from which distillate fractions have been removed, and
 - (ii) crude oil to which distillate fractions have been added,
 - (b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials' Specification for Number Four Fuel Oil (Designation D396-69)”, or heavier,
 - “terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

Power to obtain information.

174.—(1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 173 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Governor may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 173(6).

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 173, particulars contained in any list transmitted by the Governor to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connection with the execution of this section, then, unless the disclosure is made –

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the execution of this section, or
- (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

he shall be liable on summary conviction to a Fine not exceeding \$20,000.

(6) A person who –

- (a) refuses or wilfully neglects to comply with a notice under this section, or
- (b) in furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be liable –

- (i) on summary conviction, to a Fine not exceeding \$25,000 in the case of an offence under paragraph (a) above and not exceeding \$20,000 in the case of an offence under paragraph (b) above, and
- (ii) on conviction on indictment, to a Fine, or to imprisonment for a term not exceeding twelve months, or both.