

SCHEDULE 2

Article 5

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS SUBJECT TO WHICH THE
MERCHANT SHIPPING (LIABILITY AND COMPENSATION FOR OIL POLLUTION
DAMAGE) (TRANSITIONAL PROVISIONS) ORDER 1996 EXTENDS TO JERSEY

1. In article 1, omit the words “and shall come into force on 30th May 1996”.
2. In article 2—
 - (a) in the definition of “the Act”, after “1995” insert “as extended to Jersey by the 1997 Order”;
 - (b) omit “and” following the definition of “the 1992 Fund Convention”; and
 - (c) at the end, add—

““the 1975 Order” means the Merchant Shipping Act 1974 (Jersey) Order 1975(1);
“the 1981 Order” means the Merchant Shipping (Oil Pollution) Act 1971 (Jersey)
Order 1981; and
“the 1997 Order” means the Merchant Shipping (Oil Pollution) (Jersey) Order
1997”.
3. In article 3(1), for “Chapters III and IV of Part VI of the Act” substitute “the 1997 Order”; for “Schedule 4 and Part II of Schedule 5 to that Act” and for “Schedule 4 and Part II of Schedule 5 to the Act” substitute “the 1975 and 1981 Orders”; and for “the United Kingdom” substitute “Jersey”.
4. In article 4, after “United Kingdom” insert “in respect of Jersey”.
5. For paragraph 1 of Part A of Schedule 2, substitute—

“1. References to a State being a Party to a Convention shall be construed as references to the United Kingdom being Party to such a Convention in respect of Jersey.”.
6. In paragraph 3 of Part A of Schedule 2, for “as a reference to sections 152 to 170 in Schedule 4 to the Act” substitute “a reference to the 1981 Order”.
7. In paragraph 4 of Part A of Schedule 2, for “sections 172 to 181 in Schedule 4 to the Act” substitute “the 1975 Order”.
8. In paragraph 5 of Part A of Schedule 2—
 - (a) for “section 153 in Schedule 4 to the Act” substitute “section 1 of the Merchant Shipping (Oil Pollution) Act 1971 as extended to Jersey by the 1981 Order”;
 - (b) for “section 156(b) in Schedule 4 to the Act” substitute “section 3(b) of the Merchant Shipping (Oil Pollution) Act 1971 as extended to Jersey by the 1981 Order”.
9. In paragraph 1 of Part B of Schedule 2, for “this Order to the date on which the Order ceases to have effect” substitute “the 1997 Order to the date on which the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 ceases to have effect in the United Kingdom”.
10. In paragraph 3 of Part B of Schedule 2, for “sections 172 to 181 of the Act as set out in Schedule 4 to the Act” substitute “the 1975 Order”.
11. In paragraph 5 of Part B of Schedule 2, for “sections 152 to 170 of the Act as set out in Schedule 4 to the Act” substitute “the 1981 Order”.
12. For Schedule 3 substitute—

(1) S.I.1975/2181 amended by S.I. 1977/1242.

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“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 to 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 in respect of Jersey 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 the 1981 Order;
- (b) where an incident has caused pollution damage within the scope of sections 152 to 170 of the Act and the United Kingdom in respect of Jersey is 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 the 1975 Order;
- (c) subsection (1)(i) of section 156 of the Act refers to liability under section 153 of the Act or under section 1 of the Merchant Shipping (Oil Pollution) Act 1971 as extended to Jersey by the 1981 Order, as appropriate and subsection (1)(ii) of section 156 applies to the persons referred to in section 156(2) of the Act or in section 3(b) of the Merchant Shipping (Oil Pollution) Act 1971 as extended to Jersey by the 1981 Order, 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 1997 Order to the date on which the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 ceases to have effect in the United Kingdom:

- (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 the 1981 Order, the 1975 Order and sections 152 to 170 of the Act, provided that, in respect of pollution damage within the scope of sections 172 to 181 of the Act 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 1981 Order, if any, and

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the amount of compensation actually paid or deemed to have been paid under the 1975 Order.

(d) Section 179(1) of the Act shall also apply to the rights enjoyed under the 1981 Order.”.