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STATUTORY INSTRUMENTS

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**2006 No. 1265**

**The Merchant Shipping (Oil Pollution)  
(Supplementary Fund Protocol) Order 2006**

**Amendment of the Merchant Shipping Act 1995**

6. After section 176 (limitation of Fund's liability under section 175) insert—

**“Liability of the Supplementary Fund**

**176A.**—(1) The Supplementary Fund shall be liable for pollution damage in the territory of the United Kingdom in accordance with the Supplementary Fund Protocol in the circumstances mentioned in paragraph 1 of Article 4 of that Protocol (cases where full compensation cannot be obtained because of the limit imposed by paragraph 4 of Article 4 of the Fund Convention).

The text of paragraph 1 of Article 4 of the Supplementary Fund Protocol is set out in Schedule 5ZA.

(2) Subsection (1) shall apply with the substitution for the words “the United Kingdom” of the words “a Supplementary Fund Protocol country” where—

- (a) the headquarters of the Supplementary Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention or the Fund Convention for compensation for the pollution damage have been brought in a country which is not a Supplementary Fund Protocol country, or
  - (b) the incident has caused pollution damage in the territory of the United Kingdom and of another Supplementary Fund Protocol country, and proceedings under the Liability Convention or the Fund Convention for compensation for the pollution damage have been brought in a country which is not a Supplementary Fund Protocol country or in the United Kingdom.
- (3) Nothing in this section applies to pollution damage resulting from an incident if—
- (a) in the case of a single occurrence, it took place before the day on which the Supplementary Fund Protocol enters into force as respects the United Kingdom; or
  - (b) in the case of a series of occurrences having the same origin, the first of those occurrences took place before that day.

**Limitation of the Supplementary Fund's liability under section 176A**

**176B.**—(1) The Supplementary Fund's liability under section 176A shall be subject to—

- (a) paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (which impose an overall limit on the liabilities of the Supplementary Fund); and
- (b) paragraphs 2 and 3 of Article 15 of the Supplementary Fund Protocol (which prevent the Supplementary Fund from paying compensation temporarily and

permanently where obligations to communicate information to the Director under paragraph 1 of Article 13 and paragraph 1 of Article 15 have not been met).

The text of paragraphs 2 and 3 of Article 4, paragraph 1 of Article 13 and paragraphs 1, 2 and 3 of Article 15 of the Supplementary Fund Protocol is set out in Schedule 5ZA.

(2) For the purpose of giving effect to paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol a court giving judgment against the Supplementary Fund in proceedings under section 176A shall notify the Supplementary Fund, and—

- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,
- (b) that leave shall not be given unless and until the Supplementary Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and
- (c) in the latter case the judgment shall be enforceable only for the reduced amount.

(3) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (2) shall be steps to obtain payment in sterling; and—

- (a) for the purpose of converting such an amount from special drawing rights into sterling, one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
  - (i) the relevant date, namely the date referred to in paragraph 2(b) of Article 4 of the Supplementary Fund Protocol, or
  - (ii) if no sum has been so fixed for the relevant date, the last day before that date for which a sum has been so fixed; and
- (b) a certificate given by or on behalf of the Treasury stating—
  - (i) that a particular sum in sterling has been so fixed for the relevant date, or
  - (ii) that no sum has been so fixed for the relevant date and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant date,

shall be conclusive evidence of those matters for the purposes of this Chapter.

(4) Any document purporting to be such a certificate as is mentioned in subsection (3)(b) shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”.