

**2016 No. 1061**

**MERCHANT SHIPPING**

**The Merchant Shipping Act 1995 (Amendment) Order 2016**

<i>Made</i>	- - - -	<i>2nd November 2016</i>
<i>Laid before Parliament</i>		<i>8th November 2016</i>
<i>Coming into force</i>	- -	<i>30th November 2016</i>

The Secretary of State is a Minister designated(a) in relation to measures relating to maritime transport for the purpose of section 2(2) of the European Communities Act 1972(b).

The Secretary of State in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and by sections 185(2C)(c) and 306A(d) of the Merchant Shipping Act 1995(e), makes the following Order.

**Citation and commencement**

1. This Order may be cited as the Merchant Shipping Act 1995 (Amendment) Order 2016 and comes into force on 30th November 2016.

**Amendment of the Merchant Shipping Act 1995**

2. In section 164 of the Merchant Shipping Act 1995 (issue of certificate by Secretary of State)—

- (a) in subsection (1A)(f), omit the words from “or a” to “Convention country”;
- (b) after subsection (2) insert —

“(2A) If the Secretary of State is satisfied, on the application for such a certificate as is mentioned in section 163A(2) in respect of a ship registered in any country which is not a Bunkers 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 7 of the Bunkers Convention, the Secretary of State may issue such a certificate to the registered owner.”.

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(a) S.I. 1994/757.

(b) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7). By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c.51) regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1972 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(c) Section 185(2C) was inserted by section 15(1) of the Maritime Security Act 1997 (c.28).

(d) Section 306A was inserted by section 106 of the Deregulation Act 2014 (c.20).

(e) 1995 c.21.

(f) Subsection (1A) was inserted by regulation 18(3) of the Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244).

3. The text of the Convention as set out in Part 1 of Schedule 7 is amended as follows—

(a) for paragraph 1 of Article 6 (the general limits) substitute—

“1. The limits of liability for claims, other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:

- (a) in respect of claims for loss of life or personal injury,
  - (i) 3.02 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,
  - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 1,208 Units of Account;

for each ton from 30,001 to 70,000 tons, 906 Units of Account; and

for each ton in excess of 70,000 tons, 604 Units of Account,

- (b) in respect of any other claims,
  - (i) 1.51 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,
  - (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 604 Units of Account;

for each ton from 30,001 to 70,000 tons, 453 Units of Account; and

for each ton in excess of 70,000 tons, 302 Units of Account.”;

(b) after paragraph 4 of Article 6 add—

“The references in paragraph 1 to relevant limits in this Convention have effect as follows—

- (a) the references to the relevant limits are to be construed as references to those limits as modified from time to time pursuant to Article 8 of the 1996 Protocol;
- (b) a modification of a reference to a relevant limit by virtue of paragraph (a) has effect at the time that the modification of that limit pursuant to Article 8 of the 1996 Protocol comes into force in accordance with paragraph 8 of that Article;
- (c) no modification of a reference to a relevant limit by virtue of paragraph (a) affects any rights or liabilities arising out of an occurrence which took place before the day on which the modification has effect;
- (d) paragraph (a) does not apply to a modification pursuant to Article 8 of the 1996 Protocol which reduces a relevant limit.”.

Signed by authority of the Secretary of State

2nd November 2016

*John Hayes*  
Minister of State  
Department for Transport

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Merchant Shipping Act 1995 (c.21) (“the Act”).

Article 2 of the Order amends section 164(1A) of the Act, which makes provision for the issue by the Secretary of State of a certificate where there is in force insurance or other security satisfying Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001. The effect of the amendment, which also inserts a new subsection (2A) into that section, is that the Secretary of State will have discretion as to the issue of such certificates to the owners of ships which are not United Kingdom ships.

Article 3 of the Order substitutes a new paragraph 1 into Article 6 in Part 1 of Schedule 7 to the Act. Schedule 7 sets out the provisions of the Convention on Limitation of Liability for Maritime Claims 1976 (“the LLMC Convention”) as amended by the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976 (“the Protocol”).

Amendments to increase the limits of liability under the LLMC Convention were adopted in 2012 in accordance with the procedure under article 8.4 of the Protocol and entered into force eighteen months later on 8th June 2015, as provided by article 8.7 of the Protocol.

The amended schedule incorporates the new higher general limits on claims for loss of life, personal injury and claims, other than passenger claims. Article 3 also adds new provisions which will have the effect that the limits will automatically be increased, but not reduced, when future changes to the limits in the LLMC Convention have effect.

Copies of the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001, the LLMC Convention and the Protocol can be obtained from the International Maritime Organization at 4 Albert Embankment, London SE1 7SR, [www.imo.org/publications](http://www.imo.org/publications).

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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£4.25

UK201611031 11/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/1061>

ISBN 978-0-11-115108-2



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