



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART I

#### BRITISH SHIPS

#### **1 British ships and United Kingdom ships.**

- (1) A ship is a British ship if—
- the ship is registered in the United Kingdom under Part II; or
  - the ship is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council under section 308; or
  - the ship is registered under the law of a relevant British possession; or
  - the ship is a small ship other than a fishing vessel and—
    - is not registered under Part II, but
    - is wholly owned by qualified owners, and
    - is not registered under the law of a country outside the United Kingdom.
- (2) For the purposes of subsection (1)(d) above—
- “qualified owners” means persons of such description qualified to own British ships as is prescribed by regulations made by the Secretary of State for the purposes of that paragraph; and
- “small ship” means a ship less than 24 metres in length (“length” having the same meaning as in the tonnage regulations).
- (3) A ship is a “United Kingdom ship” for the purposes of this Act (except section 85 and 144(3)) if the ship is registered in the United Kingdom under Part II (and in Part V “United Kingdom fishing vessel” has a corresponding meaning).

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## **2 British flag.**

- (1) The flag which every British ship is entitled to fly is the red ensign (without any defacement or modification) and, subject to subsections (2) and (3) below, no other colours.
- (2) Subsection (1) above does not apply to Government ships.
- (3) The following are also proper national colours, that is to say—
  - (a) any colours allowed to be worn in pursuance of a warrant from Her Majesty or from the Secretary of State;
  - (b) in the case of British ships registered in a relevant British possession, any colours consisting of the red ensign defaced or modified whose adoption for ships registered in that possession is authorised or confirmed by Her Majesty by Order in Council.
- (4) Any Order under subsection (3)(b) above shall be laid before Parliament after being made.

## **3 Offences relating to British character of ship.**

- (1) If the master or owner of a ship which is not a British ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a British ship then, except as provided by subsections (2) and (3) below, the ship shall be liable to forfeiture and the master, the owner and any charterer shall each be guilty of an offence.
- (2) No liability arises under subsection (1) above where the assumption of British nationality has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.
- (3) Where the registration of any ship has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the ship within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (1) above.
- (4) If the master or owner of a British ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship shall be liable to forfeiture and the master, the owner and any charterer of the ship shall each be guilty of an offence.
- (5) Without prejudice to the generality of subsections (1) and (4) above, those subsections apply in particular to acts or deliberate omissions as respects—
  - (a) the flying of a national flag;
  - (b) the carrying or production of certificates of registration or other documents relating to the nationality of the ship; and
  - (c) the display of marks required by the law of any country.
- (6) Any person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (7) This section applies to things done outside, as well as to things done within, the United Kingdom.

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#### **4 Penalty for carrying improper colours.**

- (1) If any of the following colours, namely—
  - (a) any distinctive national colours except—
    - (i) the red ensign,
    - (ii) the Union flag (commonly known as the Union Jack) with a white border, or
    - (iii) any colours authorised or confirmed under section 2(3)(b); or
  - (b) any colours usually worn by Her Majesty’s ships or resembling those of Her Majesty, or
  - (c) the pendant usually carried by Her Majesty’s ships or any pendant resembling that pendant,are hoisted on board any British ship without warrant from Her Majesty or from the Secretary of State, the master of the ship, or the owner of the ship (if on board), and every other person hoisting them shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (3) If any colours are hoisted on board a ship in contravention of subsection (1) above, any of the following, namely—
  - (a) any commissioned naval or military officer,
  - (b) any officer of customs and excise, and
  - (c) any British consular officer,may board the ship and seize and take away the colours.
- (4) Any colours seized under subsection (3) above shall be forfeited to Her Majesty.
- (5) In this section “colours” includes any pendant.

#### **5 Duty to show British flag.**

- (1) Subject to subsection (2) below, a British ship, other than a fishing vessel, shall hoist the red ensign or other proper national colours—
  - (a) on a signal being made to the ship by one of Her Majesty’s ships (including any ship under the command of a commissioned naval officer); and
  - (b) on entering or leaving any foreign port; and
  - (c) in the case of ships of 50 or more tons gross tonnage, on entering or leaving any British port.
- (2) Subsection (1)(c) above does not apply to a small ship (as defined in section 1(2)) registered under Part II.

#### **6 Duty to declare national character of ship.**

- (1) An officer of customs and excise shall not grant a clearance or transire for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that the ship belongs, and that officer shall thereupon enter that name on the clearance or transire.

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- (2) If a ship attempts to proceed to sea without such clearance or transire, the ship may be detained until the declaration is made.

## **7 Proceedings on forfeiture of a ship.**

- (1) Where any ship has either wholly or as to any share in it become liable to forfeiture under this Part—
- (a) any commissioned naval or military officer, or
  - (b) any person appointed by the Secretary of State for the purposes of this section;
- may seize and detain the ship and bring the ship for adjudication before the court.
- (2) Where a ship is subject to adjudication under this section the court may—
- (a) adjudge the ship and her equipment to be forfeited to Her Majesty; and
  - (b) make such order in the case as seems just.
- (3) No officer or person bringing proceedings under this section shall be liable in damages in respect of the seizure or detention of the ship, notwithstanding that the ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the court is satisfied that there were reasonable grounds for the seizure or detention.
- (4) If the court is not so satisfied the court may award costs (or in Scotland expenses) and damages to the party aggrieved and make such other order as the court thinks just.
- (5) In this section “the court” means the High Court or, in Scotland, the Court of Session.

## **PART II**

### REGISTRATION

#### *General*

## **8 Central register of British ships.**

- (1) There shall continue to be a register of British ships for all registrations of ships in the United Kingdom.
- (2) The register shall be maintained by the Registrar General of Shipping and Seamen as registrar.
- (3) The Secretary of State may designate any person to discharge, on behalf of the registrar, all his functions or such of them as the Secretary of State may direct.
- (4) The Secretary of State may give to the registrar directions of a general nature as to the discharge of any of his functions.
- (5) The register shall be so constituted as to distinguish, in a separate part, registrations of fishing vessels and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships.
- (6) The register shall be maintained in accordance with registration regulations and the private law provisions for registered ships and any directions given by the Secretary of State under subsection (4) above.

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(7) The register shall be available for public inspection.

## **9 Registration of ships: basic provisions.**

- (1) A ship is entitled to be registered if—
- (a) it is owned, to the prescribed extent, by persons qualified to own British ships; and
  - (b) such other conditions are satisfied as are prescribed under subsection (2)(b) below;
- (and any application for registration is duly made).
- (2) It shall be for registration regulations—
- (a) to determine the persons who are qualified to be owners of British ships, or British ships of any class or description, and to prescribe the extent of the ownership required for compliance with subsection (1)(a) above;
  - (b) to prescribe other requirements designed to secure that, taken in conjunction with the requisite ownership, only ships having a British connection are registered.
- (3) The registrar may, nevertheless, if registration regulations so provide, refuse to register or terminate the registration of a ship if, having regard to any relevant requirements of this Act, he considers it would be inappropriate for the ship to be or, as the case may be, to remain registered.
- (4) The registrar may, if registration regulations so provide, register a fishing vessel notwithstanding that the requirement of subsection (1)(a) above is not satisfied in relation to a particular owner of a share in the vessel if the vessel otherwise has a British connection.
- (5) Where a ship becomes registered at a time when it is already registered under the law of a country other than the United Kingdom, the owner of the ship shall take all reasonable steps to secure the termination of the ship's registration under the law of that country.
- (6) Subsection (5) above does not apply to a ship which becomes registered on a transfer of registration to the register from a relevant British possession.
- (7) Any person who contravenes subsection (5) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) In this section “the relevant requirements of this Act” means the requirements of this Act (including requirements falling to be complied with after registration) relating to—
- (a) the condition of ships or their equipment so far as relevant to their safety or any risk of pollution; and
  - (b) the safety, health and welfare of persons employed or engaged in them.
- (9) In this Part references to a ship's having a British connection are references to compliance with the conditions of entitlement imposed by subsection (1)(a) and (b) above and “declaration of British connection” is to be construed accordingly.

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## 10 Registration regulations.

- (1) The Secretary of State shall by regulations (to be known as registration regulations) make provision for and in connection with the registration of ships as British ships.
- (2) Without prejudice to the generality of subsection (1) above, registration regulations may, in particular, make provision with respect to any of the following matters—
  - (a) the persons by whom and the manner in which applications in connection with registration are to be made;
  - (b) the information and evidence (including declarations of British connection) to be provided in connection with such applications and such supplementary information or evidence as may be required by any specified authority;
  - (c) the shares in the property in, and the numbers of owners (including joint owners) of, a ship permitted for the purposes of registration and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;
  - (d) the issue of certificates (including provisional certificates) of registration, their production and surrender;
  - (e) restricting and regulating the names of ships registered or to be registered;
  - (f) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;
  - (g) the period for which registration is to remain effective without renewal;
  - (h) the production to the registrar of declarations of British connection or other information relating thereto, as respects registered ships, at specified intervals or at his request;
  - (i) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;
  - (j) the refusal, suspension and termination of registration in specified circumstances;
  - (k) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);
  - (l) the charging of fees in connection with registration or registered ships;
  - (m) the transfer of the registration of ships to and from the register from and to registers or corresponding records in countries other than the United Kingdom;
  - (n) inspection of the register;
  - (o) any other matter which is authorised or required by this Part to be prescribed in registration regulations;

but no provision determining, or providing for determining, the fees to be charged or prescribing any arrangements for their determination by other persons shall be made without the approval of the Treasury.

- (3) Registration regulations may—
  - (a) make different provision for different classes or descriptions of ships and for different circumstances;
  - (b) without prejudice to paragraph (a) above, make provision for the granting of exemptions or dispensations by the Secretary of State from specified requirements of the regulations, subject to such conditions (if any) as he thinks fit to impose; and

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- (c) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient, including provision authorising investigations and conferring powers of inspection for verifying the British connection of a ship.
- (4) Registration regulations—
  - (a) may make provision for the registration of any class or description of ships to be such as to exclude the application of the private law provisions for registered ships and, if they do, may regulate the transfer, transmission or mortgaging of ships of the class or description so excluded;
  - (b) may make provision for any matter which is authorised or required by those provisions to be prescribed by registration regulations; and
  - (c) shall make provision precluding notice of any trust being entered in the register or being receivable by the registrar except as respects specified classes or descriptions of ships or in specified circumstances.
- (5) Registration regulations may create offences subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale.
- (6) Registration regulations may provide for—
  - (a) the approval of forms by the Secretary of State; and
  - (b) the discharge of specified functions by specified authorities or persons.
- (7) Registration regulations may provide for any of their provisions to extend to places outside the United Kingdom.
- (8) Any document purporting to be a copy of any information contained in an entry in the register and to be certified as a true copy by the registrar shall be evidence (and, in Scotland, sufficient evidence) of the matters stated in the document.
- (9) Registration regulations may provide that any reference in any other Act or in any instrument made under any other Act to the port of registry or the port to which a ship belongs shall be construed as a reference to the port identified by the marks required for the purpose by registration regulations.

#### **Modifications etc. (not altering text)**

- C1** S. 10(2)(f) amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, **Sch. 3**; S.I. 1998/3178, **art. 3**  
S. 10(2)(f) modified (1.7.1999) by S.I. 1999/1756, arts. 1(1), 2, **Sch. para. 17**; S.I. 1998/3178, **art. 3**

## **11 Tonnage ascertained for registration to be tonnage of ship.**

When the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations that tonnage shall be treated as the tonnage of the ship except so far as registration regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly.

## **12 Tonnage of ships of foreign countries adopting tonnage regulations.**

- (1) Her Majesty may by Order in Council make such provision in relation to the ships of a foreign country as is authorised by this section where it appears to Her that the tonnage regulations have been adopted by the foreign country and are in force there.

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- (2) An Order under this section may order that the ships of the foreign country shall, without being re-measured in the United Kingdom, be treated as being of the tonnage denoted by their certificates of registration or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registration of a United Kingdom ship is treated as being the tonnage of that ship.
- (3) Where an Order under this section is in force in relation to the ships of any country any space shown in the ship's certificate of registration or other national papers as deducted from the tonnage shall, if a similar deduction in the case of a United Kingdom ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be treated as complying with those conditions and as being so evidenced, unless a surveyor of ships certifies to the Secretary of State that the construction and equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a United Kingdom ship.
- (4) Any such Order may—
  - (a) operate for a limited time; and
  - (b) be subject to such conditions and qualifications (if any) as Her Majesty may consider expedient.
- (5) If it appears to Her Majesty that the tonnage of any foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the tonnage regulations, Her Majesty may by Order in Council order that, notwithstanding any Order in Council in force under this section, any of the ships of that country may, for all or any of the purposes of this Act, be re-measured in accordance with the tonnage regulations.

### **13 Status of certificate of registration.**

The certificate of registration of a British ship shall be used only for the lawful navigation of the ship, and shall not be subject to detention to secure any private right or claim.

### **14 Offences relating to a ship's British connection.**

- (1) Any person who, in relation to any matter relevant to the British connection of a ship—
  - (a) makes to the registrar a statement which he knows to be false or recklessly makes a statement which is false; or
  - (b) furnishes to the registrar information which is false,
 shall be guilty of an offence.
- (2) If at any time there occurs, in relation to a registered ship, any change affecting the British connection of the ship the owner of the ship shall, as soon as practicable after the change occurs, notify the registrar of that change; and if he fails to do so he shall be guilty of an offence.
- (3) Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the British connection of a ship and which he has been required to produce to the registrar in pursuance of registration regulations shall be guilty of an offence.
- (4) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;



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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (5) This section applies to things done outside, as well as to things done within, the United Kingdom.

## 15 Supplementary provisions as respects fishing vessels.

- (1) Subject to subsection (2) below, if a fishing vessel which—
  - (a) is either—
    - (i) entitled to be registered, or
    - (ii) wholly owned by persons qualified to be owners of British ships, but
  - (b) is registered neither under this Act in the part of the register relating to fishing vessels nor under the law of any country outside the United Kingdom,fishes for profit the vessel shall be liable to forfeiture and the skipper, the owner and the charterer of the vessel shall each be guilty of an offence.
- (2) Subsection (1) above does not apply to fishing vessels of such classes or descriptions or in such circumstances as may be specified in regulations made by the Secretary of State.
- (3) If the skipper or owner of a fishing vessel which is not registered in the United Kingdom does anything, or permits anything to be done, for the purpose of causing the vessel to appear to be a vessel registered in the United Kingdom, then, subject to subsection (4) below, the vessel shall be liable to forfeiture and the skipper, the owner and any charterer of the vessel shall each be guilty of an offence.
- (4) Where the registration of a fishing vessel has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the fishing vessel within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (3) above.
- (5) Any person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (6) Proceedings for an offence under this section shall not be instituted—
  - (a) in England and Wales, except by or with the consent of the Attorney General, the Secretary of State or the Minister; or
  - (b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland, the Secretary of State or the Minister.
- (7) In subsection (6) above “the Minister”—
  - (a) in relation to England and Wales, means the Minister of Agriculture, Fisheries and Food; and
  - (b) in relation to Northern Ireland, means the Secretary of State concerned with sea fishing in Northern Ireland.
- (8) This section applies to things done outside, as well as to things done within, the United Kingdom.
- (9) Sections 8 and 9 of the <sup>M1</sup>Sea Fisheries Act 1968 (general powers of British sea-fishery officers and powers of sea-fishery officers to enforce conventions) shall apply

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in relation to any provision of this section or of registration regulations in their application to fishing vessels or fishing vessels of any class or description as they apply in relation to any order mentioned in section 8 of that Act and in relation to any convention mentioned in section 9 of that Act respectively; and sections 10 to 12 and 14 of that Act (offences and supplemental proceedings as to legal proceedings) shall apply accordingly.

#### Marginal Citations

M1 1968 c. 77.

### 16 Private law provisions for registered ships and liability as owner.

- (1) Schedule 1 (which makes provision relating to the title to, and the registration of mortgages over, ships) shall have effect.
- (2) Schedule 1 does not apply in relation to ships which are excluded from its application by registration regulations under section 10(4)(a).
- (3) Where any person is beneficially interested, otherwise than as mortgagee, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be liable to any pecuniary penalties imposed by or under this Act or any other Act on the owners of registered ships.
- (4) Where the registration of any ship terminates by virtue of any provision of registration regulations, the termination of that registration shall not affect any entry made in the register so far as relating to any undischarged registered mortgage of that ship or of any share in it.
- (5) In subsection (4) above “registered mortgage” has the same meaning as in that Schedule.
- (6) In this Part “the private law provisions for registered ships” means the provisions of Schedule 1 and registration regulations made for the purposes of that Schedule or the provisions of registration regulations made under section 10(4)(a).

#### *Ships on bareboat charter*

### 17 Ships bareboat chartered-in by British charterers.

- (1) This section applies to any ship which—
  - (a) is registered under the law of a country other than the United Kingdom (“the country of original registration”),
  - (b) is chartered on bareboat charter terms to a charterer who is a person qualified to own British ships, and
  - (c) is so chartered in circumstances where the conditions of entitlement to registration prescribed under section 9(2)(b), read with the requisite modifications, are satisfied as respects the charterer and the ship.
- (2) The “requisite modifications” of those conditions are the substitution for any requirement to be satisfied by or as respects the owner of a ship of a corresponding requirement to be satisfied by or as respects the charterer of the ship.

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- (3) A ship to which this section applies is entitled to be registered if an application for registration is duly made, but section 9(3) applies also in relation to registration by virtue of this section.
- (4) The registration of a ship registered by virtue of this section shall remain in force (unless terminated earlier by virtue of registration regulations and subject to any suspension thereunder) until the end of the charter period and shall then terminate by virtue of this subsection.
- (5) Section 9(5) does not apply to a ship registered by virtue of this section but registration regulations shall include provision for securing that the authority responsible for the registration of ships in the country of original registration is notified of the registration of the ship and of the termination of its registration whether by virtue of subsection (4) above or registration regulations.
- (6) Accordingly, throughout the period for which a ship is registered by virtue of this section—
  - (a) the ship shall, as a British ship, be entitled to fly the British flag;
  - (b) this Act shall, subject to subsections (7) and (8) below, apply to the ship as a British ship or as a registered ship as it applies to other British ships and to registered ships; and
  - (c) any other enactment applicable to British ships or ships registered under this Act shall, subject to subsection (8) below, apply to the ship as a British ship or as a registered ship.
- (7) The private law provisions for registered ships shall not apply to a ship registered by virtue of this section and any matters or questions corresponding to those for which the private law provisions for registered ships make provision shall be determined by reference to the law of the country of original registration.
- (8) Her Majesty may, subject to subsection (9) below, by Order in Council, provide that any enactment falling within subsection (6)(b) or (c) above—
  - (a) shall not have effect in accordance with that subsection in relation to a ship registered by virtue of this section, or
  - (b) shall so have effect subject to such modifications (if any) as may be specified in the Order.
- (9) No provision shall be made by an Order in Council under subsection (8) above which would have the effect of relaxing the relevant requirements of this Act (as defined in section 9(8)) in their application to a ship to which this section applies.
- (10) An Order in Council under subsection (8) above may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient (including provision divesting or providing for the divestment of ownership in the ship).
- (11) In this section—

“bareboat charter terms”, in relation to a ship, means the hiring of the ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew; and

“the charter period” means the period during which the ship is chartered on bareboat charter terms.

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### *Supplemental*

## **18 Regulation of registration in British possessions by reference to categories of registries.**

- (1) Her Majesty may by Order in Council make provision for regulating the registration in relevant British possessions of ships other than small ships and fishing vessels by reference to categories of registries established by the Order.
- (2) Any such Order may—
  - (a) establish different categories of registries to which different restrictions on the registrations of ships in such possessions apply, being restrictions framed by reference to—
    - (i) ships’ tonnages, or
    - (ii) types of ships, or
    - (iii) any other specified matter, or
    - (iv) any combination of matters falling within one or more of the preceding sub-paragraphs,
 as well as a category of registries to which no such restriction applies;
  - (b) assign any relevant British possession to such one of the categories so established as appears to Her Majesty to be appropriate;
  - (c) provide that, where a relevant British possession has been assigned to a category to which any such restriction on registration as is mentioned in paragraph (a) applies, no ship covered by that restriction shall be registered under the law of that possession;
  - (d) specify circumstances in which ships may be exempted from any provision made by virtue of paragraph (c) above.
- (3) Any provision made by virtue of subsection (2)(c) above shall be expressed to be without prejudice to the operation of any provision for the time being in force under the law of any such possession as is mentioned in subsection (2)(c) above by virtue of which the registration of ships in that possession is, or may be, further restricted.
- (4) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.
- (5) In this section “small ship” has the meaning given by section 1(2).

## **19 Tonnage regulations.**

- (1) The tonnage of any ship to be registered under this Part shall be ascertained in accordance with regulations made by the Secretary of State (“tonnage regulations”).
- (2) Tonnage regulations—
  - (a) may make different provisions for different descriptions of ships or for the same description of ships in different circumstances;
  - (b) may make any regulation dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;
  - (c) may prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage and may provide for making the master and the owner each liable to a fine not exceeding level 3 on the standard scale where such a prohibition or restriction is contravened.

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- (3) Tonnage regulations may make provision—
  - (a) for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can safely be loaded;
  - (b) for indicating on the ship, by such mark as may be specified in the regulations, that such a lower tonnage has been assigned to it; and
  - (c) where the lower tonnage has been assigned to it as an alternative, for indicating on the ship the depth to which the ship may be loaded for the lower tonnage to be applicable.
- (4) Tonnage regulations may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the regulations by persons appointed by such organisations as may be authorised for the purpose by the Secretary of State.
- (5) Tonnage regulations may provide for the issue, by the Secretary of State or by persons appointed by such organisations as may be authorised for the purpose by the Secretary of State, of certificates of the registered tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in the United Kingdom, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.
- (6) Regulations requiring the delivery up of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

## **20 Proceedings on forfeiture of ship.**

Section 7 applies in relation to ships or shares in ships which become liable to forfeiture under this Part as it applies in relation to ships or shares in ships which become liable to forfeiture under Part 1.

## **21 Disclosure of information relating to registration by other government departments.**

- (1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall preclude any of the persons mentioned in subsection (2) below from disclosing—
  - (a) to the Secretary of State, or
  - (b) to the registrar, or
  - (c) to an authorised officer of the Secretary of State,information for the purpose of assisting the Secretary of State in the performance of his functions under this Part.
- (2) The persons referred to in subsection (1) above are—
  - (a) the Minister of Agriculture, Fisheries and Food,
  - (b) the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland,
  - (c) the Department of Agriculture for Northern Ireland,
  - (d) the Commissioners of Customs and Excise, and

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- (e) an authorised officer of any of the persons falling within paragraphs (a) to (d) above.
- (3) Information obtained by any person in pursuance of subsection (1) above shall not be disclosed by him to any other person except where the disclosure is made—
- (a) to a person to whom the information could have been disclosed by any of the persons mentioned in subsection (2) above in accordance with subsection (1) above, or
  - (b) for the purposes of any legal proceedings arising out of this Part.

## 22 Forgery of documents: Scotland.

- (1) In Scotland, if any person forges or fraudulently alters—
- (a) any entry or endorsement in the register; or
  - (b) subject to subsection (2) below, any other document as respects which provision is made by, under or by virtue of this Part (or any entry or endorsement in or on such other document and as respects which provision is so made),
- he shall be liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
  - (ii) on conviction on indictment, to a fine or to imprisonment or to both.
- (2) Subsection (1)(b) does not apply in respect of actings which constitute an offence under section 288(6) or 300(8).

## 23 Interpretation.

- (1) In this Part—
- “British connection” and “declaration of British connection” have the meaning given in section 9(9);
  - “the private law provisions for registered ships” has the meaning given in section 16;
  - “the register” means the register of British ships maintained for the United Kingdom under section 8 and “registered” (except with reference to the law of another country) is to be construed accordingly; and
  - “the registrar” means the Registrar General of Shipping and Seamen in his capacity as registrar or, as respects functions of his being discharged by another authority or person, that authority or person.
- (2) Where, for the purposes of any enactment the question arises whether a ship is owned by persons qualified to own British ships, the question shall be determined by reference to registration regulations made under section 9(2)(a).

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## PART III

### MASTERS AND SEAMEN

#### *Application of Part*

#### **24 Application of this Part.**

- (1) With the exceptions specified in subsection (2) below, this Part applies only to ships which are sea-going ships and masters and seamen employed in sea-going ships.
- (2) Those exceptions are sections 43, 46 to 52, 54, 55, 58, 61 to 68 and 69.
- (3) This Part, in its application to fishing vessels and persons serving in them, has effect subject to the modifications made by Part V and in particular sections 110 and 112 apply to the exclusion of sections 30 and 31.

#### *Engagement and discharge of crews*

#### **25 Crew agreements.**

- (1) Except as provided under subsection (5) below, an agreement in writing shall be made between each person employed as a seaman in a United Kingdom ship and the persons employing him and shall be signed both by him and by or on behalf of them.
- (2) The agreements made under this section with the several persons employed in a ship shall be contained in one document (in this Part referred to as a crew agreement) except that in such cases as the Secretary of State may approve—
  - (a) the agreements to be made under this section with the persons employed in a ship may be contained in more than one crew agreement; and
  - (b) one crew agreement may relate to more than one ship.
- (3) The provisions and form of a crew agreement must be of a kind approved by the Secretary of State; and different provisions and forms may be so approved for different circumstances.
- (4) Subject to the following provisions of this section, a crew agreement shall be carried in the ship to which it relates whenever the ship goes to sea.
- (5) The Secretary of State may make regulations providing for exemptions from the requirements of this section—
  - (a) with respect to such descriptions of ship as may be specified in the regulations or with respect to voyages in such areas or such description of voyages as may be so specified; or
  - (b) with respect to such descriptions of seamen as may be specified in the regulations;

and the Secretary of State may grant other exemptions from those requirements (whether with respect to particular seamen or with respect to seamen employed by a specified person or in a specified ship or in the ships of a specified person) in cases where the Secretary of State is satisfied that the seamen to be employed otherwise than under a crew agreement will be adequately protected.

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- (6) Where, but for an exemption granted by the Secretary of State, a crew agreement would be required to be carried in a ship or a crew agreement carried in the ship would be required to contain an agreement with a person employed in a ship, the ship shall carry such document evidencing the exemption as the Secretary of State may direct.
- (7) Regulations under this section may enable ships required under this section to carry a crew agreement to comply with the requirement by carrying a copy thereof, certified in such manner as may be provided by the regulations.
- (8) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section the master or the person employing the crew shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and the ship, if in the United Kingdom, may be detained.

## **26 Regulations relating to crew agreements.**

- (1) The Secretary of State may make regulations—
  - (a) requiring such notice as may be specified in the regulations to be given to a superintendent or proper officer, except in such circumstances as may be so specified, before a crew agreement is made or an agreement with any person is added to those contained in a crew agreement;
  - (b) providing for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen of crew agreements and agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;
  - (c) requiring the posting in ships of copies of or extracts from crew agreements;
  - (d) requiring copies of or extracts from crew agreements to be supplied to members of the crew demanding them and requiring copies of or extracts from documents referred to in crew agreements to be made available, in such circumstances as may be specified in the regulations, for inspection by members of the crew; and
  - (e) requiring any documents carried in a ship in pursuance of section 25 to be produced on demand to an officer of customs and excise.
- (2) Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

## **27 Discharge of seamen.**

- (1) The Secretary of State may make regulations prescribing the procedure to be followed in connection with the discharge of seamen from United Kingdom ships.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
  - (a) requiring notice of such a discharge to be given at such time as may be specified in the regulations to the superintendent or proper officer at a place specified in or determined under the regulations;
  - (b) requiring such a discharge to be recorded, whether by entries in the crew agreement and discharge book or otherwise, and requiring copies of any such entry to be given to a superintendent or proper officer or the Registrar General of Shipping and Seamen.



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- (3) Regulations under this section may provide that in such cases as may be specified in the regulations, or except in such cases as may be specified in or determined under the regulations, a seaman shall not be discharged outside the United Kingdom from a United Kingdom ship without the consent of the proper officer.
- (4) Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

## **28 Seamen left behind abroad otherwise than on discharge.**

Regulations made under section 27 may apply any provision thereof, with such modifications as appear to the Secretary of State to be appropriate, to cases where a seaman employed in a United Kingdom ship is left behind outside the United Kingdom otherwise than on being discharged from the ship.

## **29 Discharge of seamen when ship ceases to be registered in United Kingdom.**

Where a United Kingdom ship ceases to be registered, any seaman employed in the ship shall be discharged from the ship unless he consents in writing to continue his employment in the ship; and sections 30 to 33 shall apply in relation to his wages as if the ship had remained a United Kingdom ship.

*Wages etc.*

## **30 Payment of seamen's wages.**

- (1) Where a seaman employed under a crew agreement relating to a United Kingdom ship leaves the ship on being discharged from it, then, except as provided by or under this Part or any other enactment, the wages due to the seaman under the agreement shall either—
  - (a) be paid to him in full at the time when he so leaves the ship (in this section and in section 31 referred to as the time of discharge), or
  - (b) be paid to him in accordance with subsections (4) and (5) below.
- (2) If the amount shown in the account delivered to a seaman under section 31(1) as being the amount payable to him under subsection (1)(a) above is replaced by an increased amount shown in a further account delivered to him under section 31(3), the balance shall be paid to him within seven days of the time of discharge; and if the amount so shown in the account delivered to him under section 31(1) exceeds £50 and it is not practicable to pay the whole of it at the time of discharge, not less than £50 nor less than one-quarter of the amount so shown shall be paid to him at that time and the balance within seven days of that time.
- (3) If any amount which, under subsection (1)(a) or (2) above, is payable to a seaman is not paid at the time at which it is so payable the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of 56 days following the time of discharge; and if any such amount or any amount payable by virtue of this subsection remains unpaid after the end of that period it shall carry interest at the rate of 20 per cent. per annum.

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- (4) Where the crew agreement referred to in subsection (1) above provides for the seaman's basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall (subject to subsection (5) below) be paid to him not later than the date on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.
- (5) If it is not practicable, in the case of any amount due to the seaman by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (4) above, that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement had continued.
- (6) If any amount which, under subsection (4) or (5) above, is payable to a seaman is not paid at the time at which it is so payable, it shall carry interest at the rate of 20 per cent. per annum.
- (7) The provisions of subsection (3) or (6) above shall not apply if the failure to pay was due to—
- (a) a mistake,
  - (b) a reasonable dispute as to liability,
  - (c) the act or default of the seaman, or
  - (d) any other cause, not being the wrongful act or default of the persons liable to pay his wages or of their servants or agents;
- and so much of those provisions as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.
- (8) Where a seaman is employed under a crew agreement relating to more than one ship the preceding provisions of this section shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.
- (9) Where a seaman, in pursuance of section 29, is discharged from a ship outside the United Kingdom but returns to the United Kingdom under arrangements made by the persons who employed him, the preceding provisions of this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections (1) to (4) above to the time of discharge there were substituted references to the time of his return to the United Kingdom, and subsection (8) above were omitted.
- (10) For the purposes of this section any amount of wages shall, if not paid to him in cash, be taken to have been paid to a seaman—
- (a) on the date when a cheque, or a money or postal order issued by the Post Office, for that amount was despatched by the recorded delivery service to the seaman's last known address, or
  - (b) on the date when any account kept by the seaman with a bank or other institution was credited with that amount.

### **31 Account of seaman's wages.**

- (1) Subject to subsections (4) and (5) below and to regulations made under section 32 or 73, the master of every United Kingdom ship shall deliver to every seaman employed

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in the ship under a crew agreement an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

- (2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than 24 hours before the time of discharge or, if the seaman is discharged without notice or at less than 24 hours' notice, at the time of discharge.
- (3) If the amounts stated in the account require adjustment the persons who employed the seaman shall deliver to him a further account stating the adjusted amounts; and that account shall be delivered not later than the time at which the balance of his wages is payable to the seaman.
- (4) Where section 30(4) or (5) applies to the payment of any amount of wages due to a seaman under a crew agreement—
  - (a) the persons who employed the seaman shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and
  - (b) any such account shall be so delivered at the time when the wages are paid to him; and
  - (c) subsections (1) to (3) above shall not apply;and section 30(10) shall apply for the purposes of this subsection as it applies for the purposes of that section.
- (5) Where a seaman is employed under a crew agreement relating to more than one ship any account which under the preceding provisions of this section would be required to be delivered to him by the master shall instead be delivered to him by the persons employing him and shall be so delivered on or before the termination of his employment under the crew agreement.
- (6) If a person fails without reasonable excuse to comply with the preceding provisions of this section he shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

## **32 Regulations relating to wages and accounts.**

The Secretary of State may make regulations—

- (a) authorising deductions to be made from the wages due to a seaman under a crew agreement (in addition to any authorised by any provision of this Part or of any other enactment for the time being in force) in cases where a breach of his obligations under the agreement is alleged against him and such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;
- (b) regulating the manner in which any amounts deducted under the regulations are to be dealt with;
- (c) prescribing the manner in which wages due to a seaman under a crew agreement are to be or may be paid;
- (d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his ship in the United Kingdom otherwise than on being discharged therefrom;
- (e) prescribing the form and manner in which any account required to be delivered by section 31 is to be prepared and the particulars to be contained therein (which may include estimated amounts).

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### 33 Power of superintendent or proper officer to decide disputes about wages.

- (1) Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by the parties to a superintendent or proper officer for decision; but the superintendent or proper officer shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.
- (2) The decision of a superintendent or proper officer on a dispute submitted to him under this section shall be final.

### 34 Restriction on assignment of and charge upon wages.

- (1) As respects the wages due or accruing to a seaman employed in a United Kingdom ship—
  - (a) the wages shall not be subject to attachment;
  - (b) the wages shall not, in Scotland, be subject to any diligence other than those provided for in section 46(1) of the <sup>M2</sup>Debtors (Scotland) Act 1987;
  - (c) an assignment thereof before they have accrued shall not bind the seaman and the payment of the wages to the seaman shall be valid notwithstanding any previous assignment or charge; and
  - (d) a power of attorney or authority for the receipt of the wages shall not be irrevocable.
- (2) Nothing in this section shall affect the provisions of this Part with respect to allotment notes.
- (3) Nothing in this section applies to any disposition relating to the application of wages—
  - (a) in the payment of contributions to a fund declared by regulations made by the Secretary of State to be a fund to which this section applies; or
  - (b) in the payment of contributions in respect of the membership of a body declared by regulations made by the Secretary of State to be a body to which this section applies;
 or to anything done or to be done for giving effect to such a disposition.
- (4) Subsection (1)(a) above is subject, in relation to England and Wales, to the <sup>M3</sup>Attachment of Earnings Act 1971.
- (5) Subsection (1)(a) above is subject to any provision made by or under—
  - (a) section 31 or 33 of the <sup>M4</sup>Child Support Act 1991 (deductions from earnings orders); or
  - (b) Article 31 or 32 of the <sup>M5</sup>Child Support (Northern Ireland) Order 1991 (deductions from earnings orders).

#### Marginal Citations

- M2** 1987 c. 18.  
**M3** 1971 c. 32.  
**M4** 1991 c. 48.  
**M5** S.I. 1991/2628 (NI 23).

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### **35 Power of court to award interest on wages due otherwise than under crew agreement.**

In any proceedings by the master of a ship or a person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him as wages the court, unless it appears to it that the delay in paying the sum was due to—

- (a) a mistake,
- (b) a reasonable dispute as to liability,
- (c) the act or default of the person claiming the amount, or
- (d) any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants or agents,

may order them to pay, in addition to the sum due, interest on it at the rate of 20 per cent. per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

### **36 Allotment notes.**

- (1) Subject to the following provisions of this section, a seaman may, by means of an allotment note issued in accordance with regulations made by the Secretary of State, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a United Kingdom ship or ships.
- (2) A seaman's right to make an allotment under this section shall be subject to such limitations as may, by virtue of the following provisions of this section, be imposed by regulations made by the Secretary of State.
- (3) Regulations made by the Secretary of State for the purposes of this section may prescribe the form of allotment notes and—
  - (a) may limit the circumstances in which allotments may be made;
  - (b) may limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom it may be allotted and may prescribe the method by which that part is to be calculated;
  - (c) may limit the persons to whom allotments may be made by a seaman to persons of such descriptions or persons standing to him in such relationships as may be prescribed by the regulations;
  - (d) may prescribe the times and the intervals at which payments under allotment notes are to be made.
- (4) Regulations under this section may make different provision in relation to different descriptions of seamen and different circumstances.

### **37 Right of person named in allotment to sue in own name.**

- (1) A person to whom any part of a seaman's wages has been allotted by an allotment note issued in accordance with regulations made under section 36 shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seaman has for the recovery of his wages.
- (2) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seaman's wages has been allotted it shall be presumed, unless the contrary is shown, that the seaman is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

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### **38 Right, or loss of right, to wages in certain circumstances.**

- (1) Where a United Kingdom ship is wrecked or lost a seaman whose employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the two months following that date.
- (2) Where a United Kingdom ship is sold while outside the United Kingdom or ceases to be a United Kingdom ship and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the two months following that date.
- (3) A seaman shall not be entitled to wages by virtue of subsection (1) or (2) above for a day on which he was unemployed, if it is shown—
  - (a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be a United Kingdom ship; or
  - (b) that the seaman was able to obtain suitable employment for that day but unreasonably refused or failed to take it.
- (4) This section shall apply to a master as it does to a seaman.

### **39 Protection of certain rights and remedies.**

- (1) A seaman's lien, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of his ship, and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.
- (2) Subsection (1) above does not affect such of the terms of any agreement made with the seamen belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to them for salvage services rendered by that ship.

### **40 Claims against seaman's wages for maintenance, etc. of dependants.**

- (1) Where, during a seaman's employment in a ship, expenses are incurred by a responsible authority for the benefit of any dependant of his and the expenses are of a kind specified in regulations under this section and such further conditions, if any, as may be so specified are satisfied, the authority may by notice in writing complying with the regulations require the persons employing the seaman—
  - (a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and
  - (b) to give to the responsible authority as soon as may be notice in writing of the seaman's discharge from the ship;and the persons employing the seaman shall comply with the notice (subject to subsection (3) below) and give notice in writing of its contents to the seaman.
- (2) For the purposes of this section—

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- (a) the following persons, and no others, shall be taken to be a seaman's dependants, that is to say, his spouse and any person under the age of 19 whom he is liable, for the purposes of any enactment in any part of the United Kingdom, to maintain or in respect of whom he is liable under any such enactment to make contributions to a local authority; and
  - (b) expenses incurred for the benefit of any person include (in addition to any payments made to him or on his behalf) expenses incurred for providing him with accommodation or care or for exercising supervision over him;
- but no expenses shall be specified in regulations under this section unless they are such that a magistrates' court has power under any enactment in force in any part of the United Kingdom to order the making of payments in respect thereof.
- (3) Not more than the following proportion of a seaman's net wages shall be retained under subsection (1) above (whether in pursuance of one or more notices)—
    - (a) one-half if the notice or notices relate to one dependant only;
    - (b) two-thirds if the notice or notices relate to two or more dependants.
  - (4) Where a responsible authority have served a notice under this section on the persons employing a seaman a magistrates' court may, on the application of the authority, make an order for the payment to the authority of such sum, not exceeding the proportion of the seaman's wages which those persons were required by virtue of this section to retain, as the court, having regard to the expenses incurred by the authority and the seaman's means, thinks fit.
  - (5) Any sums paid out of a seaman's wages in pursuance of an order under this section shall be deemed to be paid to him in respect of his wages; and the service, on the persons who employed the seaman, of such an order or of an order dismissing an application for such an order shall terminate the period for which they were required to retain the wages.
  - (6) An application for an order under this section for the payment of any sum by the persons who employed a seaman shall be deemed, for the purposes of any proceedings, to be an application for an order against the seaman; but the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.
  - (7) Parts I and III of the <sup>M6</sup>Maintenance Orders Act 1950 shall have effect as if an order under this section were included among those referred to in sections 4(1) and (2), 9(1) and (2), and 12(1) and (2) of that Act; and any sum payable by any persons under an order made under this section in any part of the United Kingdom may, in any other part of the United Kingdom, be recovered from them as a debt due to the authority on whose application the order was made.
  - (8) Any notice or order under this section may be served by registered post or recorded delivery service.
  - (9) The Secretary of State may make regulations specifying—
    - (a) the expenses in respect of which a notice may be served by a responsible authority under subsection (1) above;
    - (b) any conditions that must be satisfied if such a notice is to be served;
    - (c) the period that may be specified in such a notice (being a period beginning with the service of the notice and ending a specified number of days after the seaman's discharge from his ship);
    - (d) the form of such a notice and the information to be contained therein; and

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- (e) the amounts to be deducted from a seaman’s wages in computing his net wages for the purposes of this section;
- and the amounts specified under paragraph (e) above may include amounts allotted by allotment notes issued under section 36.
- (10) In this section “responsible authority” means the Secretary of State, the Department of Health and Social Services for Northern Ireland, a Health and Social Services Board acting on behalf of that Department, or (except in Northern Ireland) any local authority.
- (11) In the application of subsection (2)(a) above to Northern Ireland, for the reference to a local authority there shall be substituted a reference to a Health and Social Services Board and in subsection (10) above and this subsection “Health and Social Services Board” means such a Board established under the <sup>M7</sup>Health and Personal Social Services (Northern Ireland) Order 1972.
- (12) In this section “magistrates’ court”—
- (a) in relation to Scotland, means the sheriff court, and
  - (b) in relation to Northern Ireland, means a court of summary jurisdiction.

#### Marginal Citations

**M6** 1950 c. 37.

**M7** S.I. 1972/1265 (NI 14).

#### 41 Remedies of master for remuneration, disbursements and liabilities.

The master of a ship shall have the same lien for his remuneration, and all disbursements or liabilities properly made or incurred by him on account of the ship, as a seaman has for his wages.

*Safety, health and welfare*

#### 42 Obligation of shipowners as to seaworthiness.

- (1) In every contract of employment between the owner of a United Kingdom ship and the master of or any seaman employed in the ship there shall be implied an obligation on the owner of the ship that—
- (a) the owner of the ship,
  - (b) the master of the ship, and
  - (c) every agent charged with—
    - (i) the loading of the ship,
    - (ii) the preparing of the ship for sea, or
    - (iii) the sending of the ship to sea,
- shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition for the voyage during the voyage.
- (2) The obligation imposed by subsection (1) above applies notwithstanding any agreement to the contrary.



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- (3) No liability on the owner of a ship arises under subsection (1) above in respect of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

#### **43 Crew accommodation.**

- (1) The Secretary of State may make regulations with respect to the crew accommodation to be provided in United Kingdom ships.
- (2) Without prejudice to the generality of subsection (1) above, regulations made under this section may, in particular—
- (a) prescribe the minimum space per man which must be provided by way of sleeping accommodation for seamen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
  - (b) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
  - (c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorise the surveyor to inspect any such works; and
  - (d) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed.
- (3) Regulations under this section may make different provision with respect to different descriptions of ship or with respect to ships which were registered in the United Kingdom at different dates or the construction of which was begun at different dates and with respect to crew accommodation provided for seamen of different descriptions.
- (4) Regulations under this section may exempt ships of any description from any requirements of the regulations and the Secretary of State may grant other exemptions from any such requirement with respect to any ship.
- (5) Regulations under this section may require the master of a ship or any officer authorised by him for the purpose to carry out such inspections of the crew accommodation as may be prescribed by the regulations.
- (6) If the provisions of any regulations under this section are contravened in the case of a ship the owner or master shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and the ship, if in the United Kingdom, may be detained.
- (7) In this section “crew accommodation” includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen but does not include any accommodation which is also used by or provided for the use of passengers.

#### **44 Complaints about provisions or water.**

- (1) If three or more seamen employed in a United Kingdom ship consider that the provisions or water provided for the seamen employed in that ship are not in

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accordance with safety regulations containing requirements as to the provisions and water to be provided on ships (whether because of bad quality, unfitness for use or deficiency in quantity) they may complain to the master, who shall investigate the complaint.

- (2) If the seamen are dissatisfied with the action taken by the master as a result of his investigation or by his failure to take any action they may state their dissatisfaction to him and may claim to complain to a superintendent or proper officer; and thereupon the master shall make adequate arrangements to enable the seamen to do so as soon as the service of the ship permits.
- (3) The superintendent or proper officer to whom a complaint has been made under this section shall investigate the complaint and may examine the provisions or water or cause them to be examined.
- (4) If the master fails without reasonable excuse to comply with the provisions of subsection (2) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and if he has been notified in writing by the person making an examination under subsection (3) above that any provisions or water are found to be unfit for use or not of the quality required by the regulations, then—
  - (a) if they are not replaced within a reasonable time the master or owner shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale unless he proves that the failure to replace them was not due to his neglect or default; or
  - (b) if the master, without reasonable excuse, permits them to be used he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **45 Expenses of medical and other treatment during voyage.**

- (1) If a person, while employed in a United Kingdom ship, receives outside the United Kingdom any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons employing him.
- (2) If a person dies while employed in a United Kingdom ship and is buried or cremated outside the United Kingdom, the expenses of his burial or cremation shall also be borne by those persons.
- (3) The reference in subsection (2) above to dying in a ship includes a reference to dying in a ship's boat.

#### *Manning, qualifications, training and uniform*

#### **46 Application of sections 47 to 51.**

Sections 47 to 51 apply to every United Kingdom ship and also to any ship registered under the law of a country outside the United Kingdom which carries passengers—

- (a) between places in the United Kingdom or between the United Kingdom and the Isle of Man or any of the Channel Islands; or
- (b) on a voyage which begins and ends at the same place in the United Kingdom and on which the ship calls at no place outside the United Kingdom.

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#### **47 Manning.**

- (1) Subject to subsection (2) below, the Secretary of State may make regulations—
  - (a) requiring ships to which this section applies to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any description as may be specified in the regulations; and
  - (b) prescribing or enabling the Secretary of State to specify standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seamen of any description in order to be qualified for the purposes of this section.
- (2) The Secretary of State shall not exercise his power to make regulations requiring ships to carry seamen other than doctors and cooks except to the extent that it appears to him necessary or expedient in the interests of safety.
- (3) Regulations under this section may make different provision for different descriptions of ship or for ships of the same description in different circumstances.
- (4) Without prejudice to the generality of subsection (1)(b) above, the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provision, or enable the Secretary of State to make provision, for—
  - (a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
  - (b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners; and
  - (c) the issue, form and recording of certificates and other documents;and different provisions may be so made or enabled to be made for different circumstances.
- (5) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a certificate or other document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **48 Power to exempt from manning requirements.**

- (1) The Secretary of State may exempt any ship or description of ship from any requirements of regulations made under section 47.
- (2) An exemption given under this section may be confined to a particular period or to one or more particular voyages.

#### **49 Prohibition of going to sea undermanned.**

- (1) Subject to section 48, if a ship to which this section applies goes to sea or attempts to go to sea without carrying such officers and other seamen as it is required to carry under section 47, the owner or master shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine;and the ship, if in the United Kingdom, may be detained.

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- (2) This section shall, in its application to ships which are not sea-going ships, have effect as if for the words “goes to sea or attempts to go to sea” there were substituted the words “goes on a voyage or excursion or attempts to do so” and the words “if in the United Kingdom” were omitted.

#### **50 Production of certificates and other documents of qualification.**

- (1) Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that he is qualified for the purposes of section 47 shall on demand produce it to any superintendent, surveyor of ships or proper officer and (if he is not himself the master) to the master of the ship.
- (2) If, without reasonable excuse, a person fails to comply with subsection (1) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **51 Crew’s knowledge of English.**

- (1) Where in the opinion of a superintendent or proper officer the crew of a ship to which this section applies consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, then—
- (a) if the superintendent or proper officer has informed the master of that opinion, the ship shall not go to sea; and
  - (b) if the ship is in the United Kingdom, it may be detained.
- (2) If a ship goes to sea or attempts to go to sea in contravention of this section the owner or master shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **52 Unqualified persons going to sea as qualified officers or seamen.**

- (1) If a person goes to sea as a qualified officer or seaman of any description without being such a qualified officer or seaman he shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine.
- (2) In this section “qualified” means qualified for the purposes of section 47.

#### **53 Medical treatment on board ship.**

Where a United Kingdom ship does not carry a doctor among the seamen employed in it the master shall make arrangements for securing that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for the purpose.

#### **54 Special certificates of competence.**

- (1) The Secretary of State may issue and record documents certifying the attainment of any standard of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under section 47(1)(b);

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and may, in relation thereto, make regulations for purposes corresponding to those mentioned in section 47(4).

- (2) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## 55 Young persons.

- (1) A person under school-leaving age shall not be employed in any United Kingdom ship except as permitted by regulations under this section.
- (2) The Secretary of State may make regulations—
  - (a) prescribing circumstances in which and conditions subject to which persons under school-leaving age who have attained such age as may be specified in the regulations may be employed in a ship in such capacities as may be so specified;
  - (b) prescribing circumstances and capacities in which persons over school leaving-age but under the age of 18 or under such lower age as may be specified in the regulations must not be employed in a United Kingdom ship or may be so employed only subject to such conditions as may be specified in the regulations.
- (3) Regulations made for the purposes of this section may make different provision for different employments and different descriptions of ship and any other different circumstances.
- (4) If any person is employed in a ship in contravention of this section or if any condition subject to which a person may be employed under regulations made for the purposes of this section is not complied with, the owner or master shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section a person employed in a ship shall be deemed to be over school-leaving age if he has, and under school-leaving age if he has not, attained the age which is the upper limit of compulsory school age (in Scotland school age) under the enactments relating to education in the part of the United Kingdom in which he entered into the agreement under which he is so employed or, if he entered into that agreement outside the United Kingdom or is employed otherwise than under an agreement, under the enactments relating to education in England and Wales; and if he is treated for the purposes of those enactments as not having attained that age he shall be so treated also for the purposes of this section.

### Modifications etc. (not altering text)

C2 S. 55(1) excluded (1.10.1998) by 1998 c. 31, s. 112(2) (with ss. 138(9), 144(6)); S.I. 1998/2212, art. 2(1), Sch. 1 Pt. I

## 56 Financial assistance for training.

- (1) The Secretary of State may, with the consent of the Treasury, give any person or body of persons of any description determined by him for the purposes of this section financial assistance in respect of expenses incurred or to be incurred by any such

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person or body in connection with the training (whether in the United Kingdom or elsewhere) of officers and ratings for service in merchant ships, including expenses incurred or to be incurred by any such person in connection with his undergoing any such training.

- (2) Assistance under this section may be given by way of a grant or a loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit, including conditions requiring a grant to be repaid in specified circumstances.
- (3) This section is without prejudice to any other power of the Secretary of State to give financial assistance in connection with any such training as is mentioned in subsection (1) above.
- [<sup>F1</sup>(4) In providing assistance in accordance with this section the Secretary of State shall have regard to the maintenance and development of the United Kingdom’s merchant fleet and marine related business and for that purpose shall—
  - (a) keep under review all aspects of that fleet and business; and
  - (b) seek the advice of those who appear to him to have experience of that fleet or business.
- [<sup>F1</sup>(5) In this section, “marine related business” means any trade, business or other activity concerned with the manufacture of, or the provision of goods and services for, or the operation or use of, ships and includes maritime educational establishments, marine classification societies, marine equipment suppliers, marine surveyors, marine and naval architects, marine insurance companies, protection and indemnity clubs, providers of maritime financial or legal services, the operators of ports and harbours and shipbrokers.]

#### Textual Amendments

**F1** S. 56(4)(5) inserted (17.7.1997) by 1997 c. 28, s. 17; S.I. 1997/1539, art. 2, Sch.

## 57 Uniform.

- (1) Subject to subsection (3) below, if any person, not being entitled to wear the merchant navy uniform, wears that uniform or any part thereof, or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable, on summary conviction,—
  - (a) except in a case falling within paragraph (b) below, to a fine not exceeding level 1 on the standard scale;
  - (b) if he wears it in such a manner or under such circumstances as to be likely to bring contempt on the uniform, to a fine not exceeding level 1 on the standard scale or to imprisonment for a term not exceeding one month.
- (3) Subsection (1) above shall not prevent any person from wearing any uniform or dress in the course or for the purposes of a stage play or representation, or a music-hall or circus performance if the uniform is not worn in such a manner or under such circumstances as to bring it into contempt.

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- (4) If any person entitled to wear the merchant navy uniform when aboard a ship in port or on shore appears dressed partly in uniform and partly not in uniform under such circumstances as to be likely to bring contempt on the uniform, or, being entitled to wear the uniform appropriate to a particular rank or position, wears the uniform appropriate to some higher rank or position, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

*Offences by seamen, etc*

**58 Conduct endangering ships, structures or individuals.**

- (1) This section applies—
- (a) to the master of, or any seaman employed in, a United Kingdom ship; and
  - (b) to the master of, or any seaman employed in, a ship which—
    - (i) is registered under the law of any country outside the United Kingdom; and
    - (ii) is in a port in the United Kingdom or within United Kingdom waters while proceeding to or from any such port.
- (2) If a person to whom this section applies, while on board his ship or in its immediate vicinity—
- (a) does any act which causes or is likely to cause—
    - (i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or
    - (ii) the loss or destruction of or serious damage to any other ship or any structure, or
    - (iii) the death of or serious injury to any person, or
  - (b) omits to do anything required—
    - (i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or
    - (ii) to preserve any person on board his ship from death or serious injury, or
    - (iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,
- and either of the conditions specified in subsection (3) below is satisfied with respect to that act or omission, he shall (subject to subsections (6) and (7) below) be guilty of an offence.
- (3) Those conditions are—
- (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
  - (b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.
- (4) If a person to whom this section applies—
- (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a) above, or

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- (b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things, he shall (subject to subsections (6) and (7) below) be guilty of an offence.
- (5) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (6) In proceedings for an offence under this section it shall be a defence to prove—
- (a) in the case of an offence under subsection (2) above where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;
  - (b) in the case of an offence under subsection (2) above, that at the time of the act or omission alleged against the accused he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had;
  - (c) in the case of an offence under subsection (4) above, that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
  - (d) in the case of an offence under either of those subsections—
    - (i) that he could have avoided committing the offence only by disobeying a lawful command, or
    - (ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him.
- (7) In the application of this section to any person falling within subsection (1)(b) above, subsections (2) and (4) above shall have effect as if subsection (2)(a)(i) and (b)(i) above were omitted; and no proceedings for any offence under this section shall be instituted against any such person—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (8) In this section—
- “breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;
- “duty”—
- (a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and
  - (b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and
- “structure” means any fixed or movable structure (of whatever description) other than a ship.



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## **59 Concerted disobedience and neglect of duty.**

- (1) If a seaman employed in a United Kingdom ship combines with other seamen employed in that ship—
  - (a) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;
  - (b) to neglect any duty which is required to be discharged at such a time; or
  - (c) to impede, at such a time, the progress of a voyage or the navigation of the ship,he shall be liable—
  - (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) For the purposes of this section a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.

### *Disciplinary offences*

PROSPECTIVE

## **60 Breaches by seamen of codes of conduct.**

- (1) The Secretary of State may make regulations under the following provisions of this section for the purpose of maintaining discipline on board United Kingdom ships; and in this section “disciplinary body” means a body established or approved by the Secretary of State under subsection (6) below.
- (2) Regulations may provide for the hearing on shore in the United Kingdom, by a disciplinary body, of a complaint by the master or owner of a United Kingdom ship, other than a fishing vessel, against a seaman alleging that during his employment on board the ship the seaman contravened a provision of a code of conduct approved by the Secretary of State for the purposes of this section.

The alleged contravention may be one on or off the ship and in the United Kingdom or elsewhere.

- (3) Regulations may enable a disciplinary body—
  - (a) to dismiss the complaint if it finds the allegation not proved;
  - (b) if it finds the allegation proved—
    - (i) to warn the seaman;
    - (ii) to reprimand the seaman; or
    - (iii) to recommend to the Secretary of State that the seaman shall, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book in pursuance of section 80 and shall be required to surrender any such book which has been issued to him.
- (4) Regulations may—
  - (a) enable the seaman to appeal against such a recommendation to another disciplinary body (an “appellate body”);
  - (b) enable an appellate body—

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- (i) to confirm the recommendation;
  - (ii) to cancel the recommendation; or
  - (iii) in the case of a recommendation that the seaman shall cease to be entitled to a discharge book permanently or for a particular period, to substitute for it a recommendation that he shall cease to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified.
- (5) Regulations may make provision for securing that a recommendation that the seaman shall permanently cease to be entitled to a discharge book is not submitted to the Secretary of State unless it has been confirmed, either on appeal or otherwise, by an appellate body.
- (6) Regulations may make provision for the establishment or approval for the purposes of this section of such number of bodies as the Secretary of State thinks fit and with respect to the composition, jurisdiction and procedure of any such body.
- (7) Regulations may make provision for the payment, out of money provided by Parliament, of such remuneration and allowances as the Secretary of State may, with the consent of the Treasury, determine to any member of such a body.
- (8) Regulations may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Secretary of State considers appropriate.
- (9) Without prejudice to the generality of the preceding provisions, regulations may include provision for any proceedings to take place notwithstanding the absence of the seaman to whom they relate.
- (10) Nothing in the regulations or done in pursuance of the regulations shall be construed as affecting any power to institute, prosecute, entertain or determine proceedings (including criminal proceedings) under any other enactment or at common law.

#### Commencement Information

**II** [S. 60](#) not in force at Royal Assent see [s. 314](#), [Sch. 14 para. 5](#)

### *Disqualification of seamen and inquiries*

#### **61 Inquiry into fitness or conduct of officer.**

- (1) If it appears to the Secretary of State that an officer—
- (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or
  - (b) has been seriously negligent in the discharge of his duties; or
  - (c) has failed to comply with the provisions of section 92;

the Secretary of State may cause an inquiry to be held by one or more persons appointed by him and, if he does so, may, if he thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 47 and require the officer to deliver it to him.

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- (2) Where a certificate issued to an officer has been suspended under subsection (1) above the suspension may, on the application of the officer, be terminated by the High Court or, if the inquiry is held in Scotland, by the Court of Session, and the decision of the court on such an application shall be final.
- (3) An inquiry under this section shall be conducted in accordance with rules made under section 65(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.
- (4) The persons holding an inquiry under this section into the fitness or conduct of an officer—
  - (a) may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (1) above, cancel or suspend any certificate issued to him under section 47 or censure him;
  - (b) may make such order with regard to the costs (or in Scotland expenses) of the inquiry as they think just; and
  - (c) shall make a report on the case to the Secretary of State;and if the certificate is cancelled or suspended the officer (unless he has delivered it to the Secretary of State in pursuance of subsection (1) above) shall deliver it forthwith to the persons holding the inquiry or to the Secretary of State.
- (5) Any costs (or in Scotland expenses) which a person is ordered to pay under subsection (4)(b) above may be recovered from him by the Secretary of State.

## **62 Disqualification of holder of certificate other than officer's.**

- (1) Where it appears to the Secretary of State that a person who is the holder of a certificate to which this section applies is unfit to be the holder of such a certificate, whether by reason of incompetence or misconduct or for any other reason, the Secretary of State may give him notice in writing that he is considering the suspension or cancellation of the certificate.
- (2) The notice must state the reasons why it appears to the Secretary of State that that person is unfit to be the holder of such a certificate and must state that within a period specified in the notice, or such longer period as the Secretary of State may allow, he may make written representations to the Secretary of State or claim to make oral representations to the Secretary of State.
- (3) After considering any representations made in pursuance of subsection (2) above the Secretary of State shall decide whether or not to suspend or cancel the certificate and shall give the holder of it written notice of his decision.
- (4) Where the decision is to suspend or cancel the certificate the notice shall state the date from which the cancellation is to take effect, or the date from which and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Secretary of State not later than the date so specified unless before that date the holder has required the case to be dealt with by an inquiry under section 63.
- (5) Where, before the date specified in the notice, he requires the case to be dealt with by such an inquiry, then, unless he withdraws the requirement, the suspension or cancellation shall not take effect except as ordered in pursuance of the inquiry.
- (6) The Secretary of State may make regulations prescribing the procedure to be followed with respect to the making and consideration of representations in pursuance of this

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section, the form of any notice to be given under this section and the period to be specified in any such notice as the period within which any steps are to be taken.

- (7) This section applies to every certificate issued under section 54 and to any certificate issued under section 47 other than one certifying that a person is qualified as an officer.

### **63 Inquiry into fitness or conduct of seaman other than officer.**

- (1) Where a person has, before the date mentioned in section 62(4), required his case to be dealt with by an inquiry under this section the Secretary of State shall cause an inquiry to be held by one or more persons appointed by him.
- (2) An inquiry under this section shall be conducted in accordance with rules made under section 65(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.
- (3) The persons holding an inquiry under this section—
- (a) may confirm the decision of the Secretary of State and cancel or suspend the certificate accordingly;
  - (b) may, where the decision was to cancel the certificate, suspend it instead;
  - (c) may, where the decision was to suspend the certificate, suspend it for a different period;
  - (d) may, instead of confirming the decision of the Secretary of State, censure the holder of the certificate or take no further action;
  - (e) may make such order with regard to the costs of the inquiry as they think just; and
  - (f) shall make a report on the case to the Secretary of State;
- and if the certificate is cancelled or suspended it shall be delivered forthwith to the persons holding the inquiry or to the Secretary of State.
- (4) Any costs (or in Scotland expenses) which a person is ordered to pay under subsection (3)(e) above may be recovered from him by the Secretary of State.

### **64 Re-hearing of and appeal from inquiries.**

- (1) Where an inquiry has been held under section 61 or 63 the Secretary of State may order the whole or part of the case to be reheard, and shall do so—
- (a) if new and important evidence which could not be produced at the inquiry has been discovered; or
  - (b) if there appear to the Secretary of State to be other grounds for suspecting that a miscarriage of justice may have occurred.
- (2) An order under subsection (1) above may provide for the re-hearing to be as follows,—
- (a) if the inquiry was held in England, Wales or Northern Ireland, by the persons who held it, by a wreck commissioner or by the High Court;
  - (b) if it was held in Scotland, by the persons who held it, by the sheriff or by the Court of Session.
- (3) Any re-hearing under this section which is not held by the High Court or the Court of Session shall be conducted in accordance with rules made under section 65(1).
- (4) Where the persons holding the inquiry have decided to cancel or suspend the certificate of any person or have found any person at fault, then, if no application for an order

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under subsection (1) above has been made or such an application has been refused, that person or any other person who, having an interest in the inquiry, has appeared at the hearing and is affected by the decision or finding, may appeal—

- (a) to the High Court if the inquiry was held in England, Wales or Northern Ireland;
- (b) to the Court of Session if it was held in Scotland.

## **65 Rules as to inquiries and appeals.**

- (1) The Secretary of State may make rules for the conduct of inquiries under sections 61 and 63 and for the conduct of any re-hearing under section 64 which is not held by the High Court or the Court of Session.
- (2) Without prejudice to the generality of subsection (1) above, rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.
- (3) Rules of court made for the purpose of re-hearings under section 64 which are held by the High Court, or of appeals to the High Court, may require the court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a re-hearing or hear such an appeal with the assistance of one or more assessors.

## **66 Failure to deliver cancelled or suspended certificate.**

If a person fails to deliver a certificate as required under section 61, 62 or 63 he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **67 Power to restore certificate.**

Where a certificate has been cancelled or suspended under section 61, 62, 63 or 64, the Secretary of State, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

## **68 Power to summon witness to inquiry into fitness or conduct of officer or other seaman.**

- (1) The persons holding an inquiry under section 61 or 63 may—
  - (a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and
  - (b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.
- (2) If on the failure of a person to attend such an inquiry in answer to a summons under this section—
  - (a) the persons holding the inquiry are satisfied by evidence on oath—

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- (i) that the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry,
  - (ii) that he has been duly served with the summons, and
  - (iii) that a reasonable sum has been paid or tendered to him for costs and expenses, and
- (b) it appears to them that there is no just excuse for the failure, they may issue a warrant to arrest him and bring him before the inquiry at a time and place specified in the warrant.
- (3) If any person attending or brought before such an inquiry refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may—
- (a) commit him to custody until the end of such period not exceeding one month as may be specified in the warrant or until he gives evidence or produces the document (whichever occurs first), or
  - (b) impose on him a fine not exceeding £1,000,
- or both.
- (4) A fine imposed under subsection (3)(b) above shall be treated for the purposes of its collection, enforcement and remission as having been imposed by the magistrates' court for the area in which the inquiry in question was held, and the persons holding the inquiry shall, as soon as practicable after imposing the fine, give particulars of it to the clerk of that court.
- (5) This section does not apply to Scotland.

**69 Procedure where inquiry into fitness or conduct of officer or other seaman is held by sheriff.**

Where an inquiry under section 61 or 63 is held in Scotland by a sheriff—

- (a) he shall (subject to rules made under section 65(1)) dispose of the inquiry as a summary application; and
- (b) (subject to section 64) his decision on the inquiry shall be final.

*Civil liability of seamen for offences*

**70 Civil liability for absence without leave.**

- (1) The following provisions of this section shall apply with respect to the liability of a seaman employed in a United Kingdom ship to damages for being absent from his ship at a time when he is required under his contract of employment to be on board.
- (2) If he proves that his absence was due to an accident or mistake or some other cause beyond his control and that he took all reasonable precautions to avoid being absent his absence shall not be treated as a breach of contract.
- (3) Where subsection (2) above does not apply, then—
  - (a) if no special damages are claimed his liability shall be £10;
  - (b) if special damages are claimed his liability shall not be more than £100.

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- (4) In the application of this section to Scotland for the references to special damages there shall be substituted references to damage in respect of specific expense incurred or loss sustained.

#### **71 Civil liability for smuggling.**

If a seaman employed in a United Kingdom ship is found in civil proceedings before a court in the United Kingdom to have committed an act of smuggling, whether within or outside the United Kingdom, he shall be liable to make good any loss or expense that the act has caused to any other person.

#### **72 Civil liability for fines imposed under immigration laws.**

- (1) The following provisions of this section shall apply where, at a time when a United Kingdom ship is in the national or territorial waters of any country outside the United Kingdom, a seaman employed in the ship is absent without leave and present in that country in contravention of that country's laws.
- (2) If, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seaman the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 70, be recovered from him as special damages for breach of contract (or, in Scotland, as damages in respect of specific expense incurred or loss sustained).
- (3) If, by reason of the contravention, a penalty is incurred under those laws by any other person the amount thereof, or, if that amount exceeds £100, £100, may be recovered by him from the seaman.

#### *Relief and repatriation and relief costs*

#### **73 Relief and return of seamen etc. left behind and shipwrecked.**

- (1) Where—
- (a) a person employed as a seaman in a United Kingdom ship is left behind in any country outside the United Kingdom or is taken to such a country on being shipwrecked; or
  - (b) a person who became so employed under an agreement entered into outside the United Kingdom is left behind in the United Kingdom or is taken to the United Kingdom on being shipwrecked;
- the persons who last employed him as a seaman shall make such provision for his return and for his relief and maintenance until his return and such other provisions as may be required by regulations made by the Secretary of State.
- (2) The provisions to be so made may include the repayment of expenses incurred in bringing a shipwrecked seaman ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seaman who dies before he can be returned.
- (3) The Secretary of State may also make regulations providing for the manner in which any wages due to any person left behind or taken to any country as mentioned in subsection (1) above, and any property of his left on board ship, are to be dealt with.

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- (4) The Secretary of State may make regulations requiring a superintendent or proper officer—
- (a) to make such provision as may be prescribed by the regulations with respect to any matter for which provision may be required to be made by regulations under the preceding provisions of this section; and
  - (b) to make the like provision with respect to persons who are British citizens, British Dependent Territories citizens or British overseas citizens and are found in distress in any country outside the United Kingdom after being employed in ships registered in, or belonging to the government of, such a country.
- (5) Without prejudice to the generality of the preceding provisions, regulations made under this section may make provision—
- (a) for determining the place to which a person is to be returned;
  - (b) for requiring the master of any United Kingdom ship to convey a person to a place determined in accordance with the regulations and for enabling a superintendent or proper officer to give the master directions for that purpose;
  - (c) for the making of payments in respect of the conveyance of a person in accordance with the regulations; and
  - (d) for the keeping of records and the rendering of accounts.
- (6) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.
- (7) This section applies to a person left behind on being discharged in pursuance of section 29, whether or not at the time he is left behind the ship is still a United Kingdom ship.
- (8) This section applies to the master of a ship as it applies to a seaman and sections 74 and 75 shall have effect accordingly.

#### **74 Limit of employer’s liability under section 73.**

Where a person left behind in or taken to any country as mentioned in section 73(1) remains there after the end of a period of three months the persons who last employed him as a seaman shall not be liable under that section to make provision for his return or for any matter arising after the end of that period, unless they have before the end of that period been under an obligation imposed on them by regulations under that section to make provision with respect to him.

#### **75 Recovery of expenses incurred for relief and return, etc.**

- (1) Where any expenses are incurred in respect of any matter for which the employers of a seaman are required to make provision under section 73, then—
- (a) if the expenses are incurred by the Secretary of State, or are incurred by the government of any country outside the United Kingdom and repaid to them on behalf of the Crown, the Secretary of State may recover them from the employers;
  - (b) if the expenses are incurred by the seaman he may recover them from the employers unless they prove either that under the terms of his employment



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they were to be borne by him or that he would not have been left behind but for his own wrongful act or neglect.

(2) Where, in the case of any seaman, expenses are incurred by the Secretary of State or are incurred by the government of any country outside the United Kingdom and repaid to them on behalf of the Crown—

- (a) in respect of any matter for which, but for section 74, the seaman's last employers would have been required to make provision under section 73; or
- (b) in respect of any matter for which provision is required to be made under section 73(4)(b);

the Secretary of State may recover them from the seaman (or, if he has died, from his personal representatives).

## **76 Financial assistance in respect of crew relief costs.**

(1) The Secretary of State may, with the consent of the Treasury, give financial assistance to—

- (a) the owner of a ship registered in the British Islands, or
- (b) any manager of a ship so registered, being either an individual ordinarily resident in the British Islands or a body corporate which is incorporated in the British Islands and has its principal place of business there,

in respect of travel and other costs incurred by the owner or manager in connection with members of the ship's crew joining or leaving the ship outside the limited European trading area.

(2) If the Secretary of State so determines, eligibility for assistance under this section shall be conditional on the fulfilment of such conditions with respect to all or any of the following matters as are specified in his determination—

- (a) the nationality of any person in relation to whom any such costs as are mentioned in subsection (1) above are incurred;
- (b) the ordinary residence of any such person;
- (c) the place (outside the limited European trading area) where any such person joins or leaves his ship.

(3) Assistance under this section may be given by way of a grant or loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit.

(4) For the purposes of this section—

- (a) the crew of a ship shall be taken to include the master and other officers of the ship; and
- (b) "the limited European trading area" has the same meaning as it has for the purposes of any regulations made under section 47.

### *Documentation*

## **77 Official log books.**

(1) Except as provided by regulations under this section an official log book in a form approved by the Secretary of State shall be kept in every United Kingdom ship.

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- (2) The Secretary of State may make regulations prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in their amendment or cancellation.
- (3) The regulations may require the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified therein.
- (4) Regulations under this section may exempt ships of any description from any requirements thereof, either generally or in such circumstances as may be specified in the regulations.
- (5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (6) If a person intentionally destroys or mutilates or renders illegible any entry in an official log book he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## 78 Lists of crew.

- (1) Except as provided by regulations made under this section, the master of every United Kingdom ship shall make and maintain a list of the crew containing such particulars as may be required by the regulations.
- (2) The Secretary of State may make regulations—
  - (a) specifying the particulars to be entered in a list of the crew;
  - (b) limiting the time for which a list of the crew may remain in force;
  - (c) providing for the maintenance by such persons and either in such place as may be specified in the regulations or, if it is so specified, in the ship, of a copy or copies of each list of a crew, and for the notification to such persons of any changes therein;
  - (d) for the production of a list of the crew to such persons, in such circumstances and within such time as may be specified in the regulations; and
  - (e) for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen, in such circumstances as may be specified in the regulations, of a list of the crew or a copy thereof maintained under the regulations and for the notification to him of any changes in such a list.
- (3) Regulations under this section may enable a list of the crew to be contained in the same document as a crew agreement and may treat any particulars entered in the crew agreement as forming part of the particulars entered in the list.
- (4) Regulations under this section may exempt from the requirements thereof such descriptions of ship as may be specified in the regulations and may make different provisions for different circumstances.
- (5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.

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## 79 British seamen's cards.

- (1) The Secretary of State may make regulations providing—
- (a) for the issue to British seamen of cards (in this section referred to as “British seamen’s cards”) in such form and containing such particulars with respect to the holders thereof and such other particulars (if any) as may be prescribed by the regulations, and for requiring British seamen to apply for such cards;
  - (b) for requiring the holders of British seamen’s cards to produce them to such persons and in such circumstances as may be prescribed by the regulations;
  - (c) for the surrender of British seamen’s cards in such circumstances as may be prescribed by the regulations;
  - (d) for any incidental or supplementary matters for which the Secretary of State thinks it expedient for the purposes of the regulations to provide;
- and any provision of the regulations having effect by virtue of paragraph (a) above may be so framed as to apply to all British seamen or any description of them and as to have effect subject to any exemptions for which provision may be made by the regulations.
- (2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (3) In this section “British seamen” means persons who are not aliens within the meaning of the <sup>M8</sup>British Nationality Act 1981 and are employed, or ordinarily employed, as masters or seamen.
- (4) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a British seaman’s card he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### Marginal Citations

M8 1981 c. 61.

## 80 Discharge books.

- (1) The Secretary of State may make regulations providing—
- [<sup>F2F2</sup>(a) for the issue of discharge books—
    - (i) to persons who are or have been employed in United Kingdom ships;  
or
    - (ii) to persons who are or have been employed in other ships but are not aliens within the meaning of the <sup>M9</sup>British Nationality Act 1981;
  - <sup>F2</sup>(aa) for requiring the persons mentioned in paragraph (a) above to apply for discharge books;
  - <sup>F2</sup>(ab) for the form of discharge books and the particulars (if any) that they are to contain with respect to their holders;]
  - (b) for requiring the holders of discharge books to produce them to such persons and in such circumstances as may be prescribed by the regulations;
  - (c) for the surrender of discharge books in such circumstances as may be prescribed by the regulations;

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- (d) for any incidental or supplementary matters for which the Secretary of State thinks it expedient for the purposes of the regulations to provide; and any provision of the regulations having effect by virtue of [F3 paragraph (a), (aa) or (ab)] above may be so framed as to apply to all such persons as are mentioned in that paragraph or any description of such persons and as to have effect subject to any exemptions for which provision may be made by the regulations.
- (2) Regulations under this section may—
- (a) provide for a person to cease to be entitled to a discharge book in consequence of a recommendation made by a disciplinary body by virtue of regulations made under section 60(3) or (4); and
  - (b) provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.
- (3) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (4) A person who, in the United Kingdom or elsewhere—
- (a) obtains employment as a seaman on board a United Kingdom ship and does so when he is disentitled to a discharge book by virtue of regulations made under subsection (2)(a) above; or
  - (b) employs as such a seaman a person who he knows or has reason to suspect is disentitled as aforesaid,
- shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

#### Textual Amendments

**F2** S. 80(1)(a)-(ab) substituted (17.7.1997) for s. 80(1)(a) by 1997 c. 28, s. 18(1); S.I. 1997/1539, art. 2, Sch.

**F3** Words in s. 80(1) substituted (17.7.1997) by 1997 c. 28, s. 18(2); S.I. 1997/1539, art. 2, Sch.

#### Commencement Information

**I2** S. 80 partly in force; s. 80(1)(3) in force at 1.1.1996, see ss. 314, 316(2), Sch. 14 para. 5

#### Marginal Citations

**M9** 1981 c. 61.

## 81 Handing over of documents by master.

- (1) If a person ceases to be the master of a United Kingdom ship during a voyage of the ship he shall deliver to his successor the documents relating to the ship or its crew which are in his custody.
- (2) If, without reasonable excuse, the master of such a ship fails to comply with subsection (1) above, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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### *Merchant Navy Reserve*

#### **82 Maintenance of Merchant Navy Reserve.**

- (1) The Secretary of State may maintain the body of persons known as the Merchant Navy Reserve whose members may, in such circumstances and for such periods as the Secretary of State may determine, be required by him to serve in ships belonging to or employed in the service of Her Majesty.
- (2) The Merchant Navy Reserve shall consist of such number of persons as the Secretary of State may determine who voluntarily undertake to become members of the Reserve and are accepted as members of it.
- (3) The Secretary of State may determine the procedure by which, and the conditions under which, persons may become, or (subject to any regulations made by him under this section) may cease to be, members of the Merchant Navy Reserve.
- (4) The Secretary of State may make regulations with respect to the calling into, and discharge from, service of members of the Merchant Navy Reserve and with respect to other matters relating to the service of members of the Reserve.
- (5) Any such regulations may, in particular, make provision—
  - (a) for call-out notices to be served on members of the Reserve;
  - (b) for the requirements to be complied with by persons on whom such notices have been served;
  - (c) as to the uniform and equipment with which members of the Reserve are to be provided;
  - (d) for regulating the conduct and discipline of members of the Reserve who have entered into service, and for securing their attendance at their places of duty;
  - (e) for the imposition of fines, or the forfeiture of pay or other amounts, for misconduct or breaches of discipline or for contravention of provisions of the regulations.
- (6) Without prejudice to the operation of subsection (5)(e) above, regulations under this section may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale or such lower amount as is prescribed by the regulations.
- (7) Regulations under this section may make different provision for different circumstances.

#### **83 Supplementary provisions as respects the Reserve.**

- (1) Subject to such conditions as the Secretary of State may determine, there shall be payable to members of the Merchant Navy Reserve such pay, bounties and allowances as he may determine.
- (2) The Secretary of State may make such payments as he thinks fit in connection with the training and certification of members of the Merchant Navy Reserve (including payments to persons undergoing such training and payments in connection with the re-validation of certificates).
- (3) The Secretary of State shall not make any determination under subsection (1) above, or any payment under subsection (2) above, except with the consent of the Treasury.

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- (4) Where any person is called into service by virtue of regulations under section 82—
- (a) the provisions of the <sup>M10</sup>Reserve Forces (Safeguard of Employment) Act 1985 shall apply to that person as if any service rendered by him in pursuance of the call-out were whole-time service within the meaning of that Act; and
  - (b) any service so rendered shall be relevant service within the meaning of the <sup>M11</sup>Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.

#### Marginal Citations

**M10** 1985 c. 17.

**M11** 1951 c. 65.

### Interpretation

#### 84 Interpretation.

- (1) In this Part—
- “crew agreement” has the meaning given to it by section 25(2);
  - “relief and maintenance” includes the provision of surgical or medical treatment and such dental and optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency; and
  - “ship’s boat” includes a life-raft.
- (2) References in this Part to going to sea include references to going to sea from any country outside the United Kingdom.
- (3) For the purposes of this Part a seaman is discharged from a ship when his employment in that ship is terminated.
- (4) For the purposes of this Part a seaman discharged from a ship in any country and left there shall be deemed to be left behind in that country notwithstanding that the ship also remains there.
- (5) Any power conferred by this Part to provide for or grant an exemption includes power to provide for or grant the exemption subject to conditions.

## PART IV

### SAFETY

#### *Safety and Health on Ships*

#### 85 Safety and health on ships.

- (1) The Secretary of State may by regulations (in this Act referred to as “safety regulations”) make such provision as he considers appropriate for all or any of the following purposes—

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- (a) for securing the safety of United Kingdom ships and persons on them, and for protecting the health of persons on United Kingdom ships;
  - [<sup>F4</sup>(b) for securing the safety of other ships and persons on them while they are within United Kingdom waters and for protecting the health of persons on ships other than United Kingdom ships while they are within United Kingdom waters.]
- [<sup>F5F5</sup>(1A) Except as provided by subsection (1B) below, safety regulations shall not apply in relation to—
- (a) a qualifying foreign ship while it is exercising—
    - (i) the right of innocent passage; or
    - (ii) the right of transit passage through straits used for international navigation; or
  - (b) persons on such a ship while it is exercising any such right.
- <sup>F5</sup>(1B) Safety regulations shall apply in relation to a qualifying foreign ship, and persons on such a ship, even though the ship is exercising a right mentioned in subsection (1A) (a) above, to the extent that the safety regulations give effect to any provisions of an international agreement ratified by the United Kingdom so far as it relates to the safety of ships or persons on them or to the protection of the health of persons on ships.]
- (2) In subsection (1) above “United Kingdom ship” means a ship which—
- (a) is registered in the United Kingdom; or
  - (b) is not registered under the law of any country but is wholly owned by persons each of whom is—
    - (i) a British citizen, a British Dependent Territories citizen or a British Overseas citizen, or
    - (ii) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.
- (3) Regulations in pursuance of subsection (1)(a) or (b) above may make provision with respect to any of the following matters, <sup>F6</sup> . . . , that is to say—
- (a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;
  - (b) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship which is not cargo, machinery or equipment;
  - (c) the carrying out of any operation involving a ship;
  - (d) the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;
  - (e) the manning of ships, including the employment on ships of persons qualified to attend to the health and safety of persons on the ships;
  - (f) the arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons;
  - (g) the access to, presence in and egress from a ship, and different parts of it, of persons of any description;
  - (h) the ventilation, temperature and lighting of different parts of a ship;
  - (i) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;
  - (j) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;

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- (k) the steps to be taken to prevent any collision involving a ship and in consequence of any collision involving a ship;
  - (l) the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance in such a case;
  - (m) the removal, by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;
  - (n) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;
  - (o) the making of records and the keeping of documents relating to ships and the keeping and use on a ship of information to facilitate the navigation of the ship;
  - (p) the keeping of registers and the issue of certificates in cases for which registration or a certificate is required by virtue of the regulations; and
  - (q) the furnishing of information;
- but the mention of specific matters in this subsection shall not be construed as restricting the generality of the power conferred by [<sup>F7</sup>paragraph (a) or (b)] of subsection (1) above.
- (4) The power to make regulations conferred by [<sup>F8</sup>subsection (1)]above shall extend also to the making of regulations for the prevention of collisions between seaplanes on the surface of water and between ships and seaplanes and subsection (3)(k) above and (5) to (7) below and section 86(1) shall have effect accordingly.
- (5) Safety regulations—
- (a) may make provision in terms of approvals given by the Secretary of State or another person and in terms of any document which the Secretary of State or another person considers relevant from time to time;
  - (b) may provide for the cancellation of an approval given in pursuance of the regulations and for the alteration of the terms of such an approval; and
  - (c) must provide for any approval in pursuance of the regulations to be given in writing and to specify the date on which it takes effect and the conditions (if any) on which it is given.
- (6) Without prejudice to section 86(1)(b), safety regulations may provide—
- (a) for the granting by the Secretary of State or another person, on such terms (if any) as the Secretary of State or other person may specify, of exemptions from specified provisions of the regulations for classes of cases or individual cases; and
  - (b) for the alteration or cancellation of exemptions granted in pursuance of the regulations.
- (7) Safety regulations may provide—
- (a) that in such cases as are prescribed by the regulations a ship shall be liable to be detained and that section 284 shall have effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship;
  - (b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on



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conviction on indictment by imprisonment for a term not exceeding two years and a fine;

- (c) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, or such less amount as is prescribed by the regulations;
- (d) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (b) or (c) above;
- (e) that, notwithstanding anything in paragraph (b) or (c) above, a person convicted summarily of an offence under the regulations of a kind which is stated by the regulations to correspond to an offence which is triable either summarily or on indictment under an enactment specified in the regulations which authorises or authorised a fine on summary conviction of a maximum amount exceeding the statutory maximum shall be liable to a fine not exceeding that maximum amount.

#### Textual Amendments

- F4** S. 85(1)(b) substituted (19.3.1997) for s. 85(1)(b)(c) and the words following para. (c) by 1997 c. 28, ss. 8(2), 31(4)
- F5** S. 85(1A)(1B) inserted (19.3.1997) by 1997 c. 28, ss. 8(3), 31(4)
- F6** Words in s. 85(3) omitted (19.3.1997) by virtue of 1997 c. 28, ss. 8(4)(a), 31(4) and repealed (23.3.1997) by 1997 c. 28, s. 29(2), Sch. 7 Pt. I; S.I. 1997/1082, art. 2, Sch. Appendix
- F7** Words in s. 85(3) substituted (19.3.1997) by 1997 c. 28, ss. 8(4)(b), 31(4)
- F8** Words in s. 85(4) substituted (19.3.1997) by 1997 c. 28, s. 8(5)

## 86 Provisions supplementary to section 85: general.

(1) Safety regulations may—

- (a) make different provision for different circumstances and, in particular, make provision for an individual case;
- (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
- (c) be made so as to extend outside the United Kingdom;
- (d) contain such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate;
- (e) make provision for compensation to be paid, where a signal is used or displayed otherwise than in accordance with the regulations, for any expense or loss caused in consequence of the signal's being taken for a signal of distress;

and any compensation falling to be paid by virtue of regulations under paragraph (e) above may, without prejudice to any other remedy, be recovered in the same manner as salvage.

(2) The Secretary of State may by regulations—

- (a) make such repeals or other modifications of provisions of the Merchant Shipping Acts 1894 to 1977 re-enacted in this Act, and of any instruments made under those Acts as he considers appropriate in consequence or in anticipation of the making of safety regulations;

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- (b) make such repeals or other modifications of provisions of any enactment passed and any instrument made before 4th April 1979 as he considers appropriate in connection with any modification made or to be made in pursuance of paragraph (a);
  - (c) provide for anything done under a provision repealed or otherwise modified by virtue of either of the preceding paragraphs to have effect as if done under safety regulations and make such other transitional provision and such incidental and supplemental provision as he considers appropriate in connection with any modification made by virtue of either of those paragraphs.
- (3) Nothing in section 85(3) to (6) or subsection (1) above shall be construed as prejudicing the generality of section 85(1).
- (4) Where the Secretary of State proposes to make safety regulations or he or another person proposes to give an approval in pursuance of safety regulations it shall be the duty of the Secretary of State or other person, before he gives effect to the proposal, to consult such persons in the United Kingdom (if any) as he considers will be affected by the proposal.
- <sup>F9</sup>(5) .....
- <sup>F9</sup>(6) .....

**Textual Amendments**

**F9** S. 86(5)(6) repealed (23.3.1997) by 1997 c. 28, s. 29(2), Sch. 7 Pt. I; S.I. 1997/1082, art. 2, Sch. Appendix

**87 Provisions supplementary to section 85: dangerous goods.**

- (1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any ship, whether or not a United Kingdom ship—
- (a) without being marked as required by safety regulations,
  - (b) without such notice having been given as is required by safety regulations,
  - (c) under a false description, or
  - (d) with a false description of their sender or carrier,
- any court having Admiralty jurisdiction may declare the goods, and any package or receptacle in which they are contained, to be forfeited.
- (2) On a declaration of forfeiture being made, the goods shall be forfeited and they shall be disposed of as the court directs.
- (3) The powers conferred on the court by subsections (1) and (2) above are exercisable notwithstanding that the owner of the goods—
- (a) has not committed any offence under safety regulations relating to dangerous goods;
  - (b) is not before the court; and
  - (c) has no notice of the proceedings;
- and notwithstanding that there is no evidence to show to whom the goods belong.

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- (4) Nevertheless, the court may, in their discretion, require such notice as they may direct to be given to the owner or shipper of the goods before they are forfeited.
- (5) In this section “dangerous goods” means goods designated as dangerous goods by safety regulations.

## **88 Safety of submersible and supporting apparatus.**

- (1) This section applies to any submersible or supporting apparatus—
  - (a) operated within United Kingdom waters, or
  - (b) launched or operated from, or comprising, a United Kingdom ship.
- (2) The Secretary of State may make regulations —
  - (a) for the safety of submersible and supporting apparatus;
  - (b) for the prevention of accidents in or near submersible or supporting apparatus;
  - (c) for the safety, health and welfare of persons on or in submersible and supporting apparatus;
  - (d) for prohibiting or otherwise restricting the operation of any submersible apparatus except in accordance with the conditions of a licence granted under the regulations; and
  - (e) for the registration of submersible apparatus.
- (3) Schedule 2 shall have effect for supplementing the provisions of this section.
- (4) In this section—
  - “apparatus” includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment;
  - “specified” means specified in regulations made by the Secretary of State for the purposes of this section;
  - “submersible apparatus” means any apparatus used, or designed for use, in supporting human life on or under the bed of any waters or elsewhere under the surface of any waters; and
  - “supporting apparatus” means any apparatus used, or designed for use, in connection with the operation of any submersible apparatus.

### *Special provisions*

#### *Report of dangers to navigation.*

## **89 Load lines.**

Schedule 3 (which makes provision as to load lines) shall have effect.

## **90 Charts and other information.**

- (1) The Secretary of State may make rules specifying such charts, directions or information as appear to him necessary or expedient for the safe operation of ships.
- (2) Rules under this section may require United Kingdom ships, or such descriptions of United Kingdom ships as may be specified in the rules, to carry (either at all times

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or on such voyages as may be specified in the rules) copies of the charts, directions or information so specified.

- (3) If a ship goes to sea or attempts to go to sea without carrying copies of the charts, directions or information which it is required to carry by rules under this section the master or owner shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- 91** (1) The master of any United Kingdom ship, on meeting with any of the dangers to navigation specified in subsection (2) below, shall send information accordingly, by all means of communication at his disposal and in accordance with rules to be made for the purposes of this section, to ships in the vicinity and to such authorities on shore as may be prescribed by those rules.
- (2) The dangers to navigation referred to in subsection (1) above are—
- (a) dangerous ice;
  - (b) a dangerous derelict;
  - (c) a tropical storm;
  - (d) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships;
  - (e) winds of force 10 or above on the Beaufort Scale for which no storm warning has been received; or
  - (f) any other direct danger to navigation.
- (3) Rules for the purposes of this section shall be made by the Secretary of State.
- (4) If the master of a ship fails to comply with the provisions of this section, he shall be liable to a fine not exceeding level 4 on the standard scale.
- (5) Every person in charge of a controlled station for wireless telegraphy shall, on receiving the signal prescribed by the said rules for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by the Secretary of State, shall transmit the message in such manner as may be required by the Secretary of State.
- (6) Compliance with subsection (5) above shall be deemed to be a condition of every wireless telegraphy licence.
- (7) In this section—
- “controlled station for wireless telegraphy” means such a station controlled by the Secretary of State; and “controlled” includes controlled by means of a licence granted by him;
- “tropical storm” means a hurricane, typhoon, cyclone, or other storm of a similar nature;
- “wireless telegraphy licence” and “station for wireless telegraphy” have the same meaning as in the <sup>M12</sup>Wireless Telegraphy Act 1949;
- and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in his vicinity.

#### Marginal Citations

**M12** 1949 c. 54.

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### *Assistance at sea*

## **92 Duty of ship to assist the other in case of collision.**

- (1) In every case of collision between two ships, it shall be the duty of the master of each ship, if and so far as he can do so without danger to his own ship, crew and passengers (if any)—
  - (a) to render to the other ship, its master, crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other ship until he has ascertained that it has no need of further assistance; and
  - (b) to give to the master of the other ship the name of his own ship and also the names of the ports from which it comes and to which it is bound.
- (2) The duties imposed on the master of a ship by subsection (1) above apply to the masters of United Kingdom ships and to the masters of foreign ships when in United Kingdom waters.
- (3) The failure of the master of a ship to comply with the provisions of this section shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default.
- (4) If the master fails without reasonable excuse to comply with this section, he shall—
  - (a) in the case of a failure to comply with subsection (1)(a) above, be liable—
    - (i) on summary conviction, to a fine not exceeding £50,000 or imprisonment for a term not exceeding six months or both;
    - (ii) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both; and
  - (b) in the case of a failure to comply with subsection (1)(b) above, be liable—
    - (i) on summary conviction, to a fine not exceeding the statutory maximum;
    - (ii) on conviction on indictment, to a fine;and in either case if he is a certified officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

## **93 Duty to assist ships, etc. in distress.**

- (1) The master of a ship, on receiving at sea a signal of distress or information from any source that a ship or aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released from this duty under subsection (4) or (5) below.
- (2) Where the master of any ship in distress has requisitioned any ship that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.
- (3) The duties imposed on the master of a ship by subsections (1) and (2) above apply to the masters of United Kingdom ships and to the masters of foreign ships when in United Kingdom waters.

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- (4) A master shall be released from the duty imposed by subsection (1) above as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.
- (5) A master shall be released from the duty imposed by subsection (1) above, and, if his ship has been requisitioned, from the duty imposed by subsection (2) above, if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.
- (6) If a master fails to comply with the preceding provisions of this section he shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (7) Compliance by the master of a ship with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

### *Unsafe ships*

#### **94 Meaning of “dangerously unsafe ship”.**

- (1) For the purposes of sections 95, 96, 97 and 98 a ship [<sup>F10</sup>in port] is “dangerously unsafe” if, having regard to the nature of the service for which it is intended, the ship is, by reason of the matters mentioned in subsection (2) below, unfit to go to sea without serious danger to human life.
- [<sup>F11</sup>(1A) For the purposes of those sections a ship at sea is “dangerously unsafe” if, having regard to the nature of the service for which it is being used or is intended, the ship is, by reason of the matters mentioned in subsection (2) below, either—
  - (a) unfit to remain at sea without serious danger to human life, or
  - (b) unfit to go on a voyage without serious danger to human life.]
- (2) Those matters are—
  - (a) the condition, or the unsuitability for its purpose, of—
    - (i) the ship or its machinery or equipment, or
    - (ii) any part of the ship or its machinery or equipment;
  - (b) undermanning;
  - (c) overloading or unsafe or improper loading;
  - (d) any other matter relevant to the safety of the ship;
 and are referred to in those sections, in relation to any ship, as “the matters relevant to its safety”.
- (3) Any reference in those sections to “going to sea” shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

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#### Textual Amendments

- F10** Words in s. 94(1) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 1(2)**; S.I. 1997/1082, art. 2, **Sch.**
- F11** S. 94(1A) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 1(3)**; S.I. 1997/1082, art. 2, **Sch.**

### 95 Power to detain dangerously unsafe ship.

- [<sup>F12</sup>(1) Where a ship which is—
- (a) in a port in the United Kingdom, or
  - (b) at sea in United Kingdom waters,
- appears to a relevant inspector to be a dangerously unsafe ship, the ship may be detained.]
- (2) [<sup>F13</sup>Subject to subsection (2A) below]the power of detention conferred by subsection (1) above is exercisable in relation to foreign ships as well as United Kingdom ships.
- [<sup>F13</sup>(2A) The power of detention conferred by subsection (1)(b) is not exercisable in relation to a qualifying foreign ship while the ship is exercising—
- (a) the right of innocent passage, or
  - (b) the right of transit passage through straits used for international navigation.]
- (3) The officer detaining the ship shall serve on the master of the ship a detention notice which shall—
- (a) state that the relevant inspector is of the opinion that the ship is a dangerously unsafe ship;
  - (b) specify the matters which, in the relevant inspector’s opinion, make the ship a dangerously unsafe ship; and
  - (c) [<sup>F14</sup>require the ship to comply with the terms of the notice] until it is released by a competent authority.
- (4) In the case of a ship which is not a British ship the officer detaining the ship shall cause a copy of the detention notice to be sent as soon as practicable to the nearest consular officer for the country to which the ship belongs.
- (5) In this section—
- “competent authority” means any officer mentioned in section 284(1); and
  - “relevant inspector” means any person mentioned in paragraph (a), (b) or (c) of section 258(1).

#### Textual Amendments

- F12** S. 95(1) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 2(2)**; S.I. 1997/1082, art. 2, **Sch.**
- F13** S. 95(2A) and words in s. 95(2) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 2(3)**; S.I. 1997/1082, art. 2, **Sch.**
- F14** Words in s. 95(3)(c) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 2(4)**; S.I. 1997/1082, art. 2, **Sch.**

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## 96 References of detention notices to arbitration.

- (1) Any question as to whether any of the matters specified in relation to a ship in a detention notice in pursuance of section 95(3)(b) in connection with any opinion formed by the relevant inspector constituted a valid basis for that opinion shall, if the master or owner of the ship so requires by a notice given to the relevant inspector within 21 days from the service of the detention notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.
- (2) Where a notice is given by the master or owner of the ship in accordance with subsection (1) above, the giving of the notice shall not suspend the operation of the detention notice unless, on the application of the person requiring the reference, the arbitrator so directs.
- (3) The arbitrator shall have regard, in coming to his decision, to any other matters not specified in the detention notice which appear to him to be relevant to whether the ship was or was not a dangerously unsafe ship.
- (4) Where on a reference under this section the arbitrator decides as respects any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector's opinion he shall either cancel the detention notice or affirm it with such modifications as he may in the circumstances think fit; and in any other case the arbitrator shall affirm the notice in its original form.
- (5) The arbitrator shall include in his decision a finding whether there was or was not a valid basis for the detention of the ship as a dangerously unsafe ship.
- (6) A person shall not be qualified for appointment as an arbitrator under this section unless he is—
  - (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or a person holding a certificate equivalent to any such certificate;
  - (b) a naval architect;
  - (c) a person falling within subsection (7); or
  - (d) a person with special experience of shipping matters, of the fishing industry, or of activities carried on in ports.
- (7) For the purposes of subsection (6)(c) a person falls within this subsection if—
  - (a) he has a 10 year general qualification (within the meaning of section 71 of the <sup>M13</sup>Courts and Legal Services Act 1990);
  - (b) he is an advocate or solicitor in Scotland of at least 10 years' standing; or
  - (c) he is a member of the bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.
- (8) In connection with his functions under this section an arbitrator shall have the powers conferred on an inspector by section 259.
- (9) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in subsection (1) above to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by the sheriff.

<sup>F15</sup>(10) .....



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(11) In this section “relevant inspector” has the same meaning as in section 95.

#### Textual Amendments

**F15** S. 96(10) repealed (31.1.1997) by 1996 c. 23, s. 107(2), Sch. 4; S.I. 1996/3146, art. 3 (with art. 4, Sch. 2)

#### Modifications etc. (not altering text)

**C3** S. 96 applied (with modifications) (1.1.1996) by S.I. 1995/3128, reg. 10(2)  
S. 96 applied (31.3.1998) by S.I. 1997/2962, reg. 30  
S. 96 applied (30.10.1998) by S.I. 1998/2411, reg. 16  
S. 96 applied (31.12.1998) by S.I. 1998/2857, reg. 13  
S. 96 applied (25.10.1999) by S.I. 1999/2205, reg. 17  
S. 96 applied (with modifications) (1.11.2001) by S.I. 2001/3209, reg. 9(8)  
S. 96 applied (with modifications) (15.2.2002) by S.I. 2001/3444, reg. 13  
S. 96 applied (with modifications) (23.11.2002) by S.I. 2002/2201, reg. 12  
S. 96 applied (with modifications) (1.9.2002) by S.I. 2002/2055, reg. 16  
S. 96 applied (with modifications) (7.9.2002) by S.I. 2002/2125, reg. 18(1)(2)

#### Marginal Citations

**M13** 1990 c. 41.

### 97 Compensation in connection with invalid detention of ship.

- (1) If on a reference under section 96 relating to a detention notice in relation to a ship—
- the arbitrator decides that any matter did not constitute a valid basis for the relevant inspector’s opinion, and
  - it appears to him that there were no reasonable grounds for the inspector to form that opinion,
- the arbitrator may award the owner of the ship such compensation in respect of any loss suffered by him in consequence of the detention of the ship as the arbitrator thinks fit.
- (2) Any compensation awarded under this section shall be payable by the Secretary of State.
- (3) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter.
- (4) In this section “relevant inspector” has the same meaning as in section 95.

#### Modifications etc. (not altering text)

**C4** S. 97 applied (31.3.1998) by S.I. 1997/2962, reg. 30  
S. 97 applied (30.10.1998) by S.I. 1998/2411, reg. 16  
S. 97 applied (31.12.1998) by S.I. 1998/2857, reg. 13  
S. 97 applied (25.10.1999) by S.I. 1999/2205, reg. 17  
S. 97 applied (with modifications) (1.11.2001) by S.I. 2001/3209, reg. 9(8)  
S. 97 applied (with modifications) (15.2.2002) by S.I. 2001/3444, reg. 13  
S. 97 applied (with modifications) (23.11.2002) by S.I. 2002/2201, reg. 12  
S. 97 applied (with modifications) (1.9.2002) by S.I. 2002/2055, reg. 16  
S. 97 applied (with modifications) (7.9.2002) by S.I. 2002/2125, reg. 18(1)(2)

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C5 S. 97(1) applied (with modifications) (1.1.1996) by S.I. 1995/3128, reg. 10(3)

## 98 Owner and master liable in respect of dangerously unsafe ship.

- (1) If a ship which—
- (a) is in a port in the United Kingdom, or
  - (b) is a United Kingdom ship and is in any other port,
- is dangerously unsafe, then, subject to subsections (4) and (5) below, the master and the owner of the ship shall each be guilty of an offence.
- (2) Where, at the time when a ship is dangerously unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either—
- (a) directly, under the terms of a charter-party or management agreement made with the owner, or
  - (b) indirectly, under the terms of a series of charter-parties or management agreements,
- the reference to the owner in subsection (1) above shall be construed as a reference to that other person or (as the case may be) to each of those other persons.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (4) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence—
- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge (or, in Scotland, which are libelled in the complaint, petition or indictment); or
  - (b) it was reasonable for such arrangements not to have been made.
- (5) It shall also be a defence in proceedings for an offence under this section to prove—
- (a) that, under the terms of one or more charter-parties or management agreements entered into by the accused, the relevant responsibilities, namely—
    - (i) where the accused is the owner, his responsibilities with respect to the matters relevant to the ship's safety, or
    - (ii) where the accused is liable to proceedings under this section by virtue of subsection (2) above, so much of those responsibilities as had been assumed by him as mentioned in that subsection,
 had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and
  - (b) that in all the circumstances of the case the accused had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a) above;

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and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subsection (6) below.

- (6) Those matters are—
- (a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and
  - (b) the extent to which the accused was or was not able, under the terms of any such charter-party or management agreement as is mentioned in subsection (5) (a) above—
    - (i) to terminate it, or
    - (ii) to intervene in the management of the ship,in the event of any such deficiency, and whether it was reasonable for the accused to place himself in that position.
- (7) No proceedings for an offence under this section shall be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (8) In this section—
- “management agreement”, in relation to a ship, means any agreement (other than a charter-party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person); and
- “relevant responsibilities” shall be construed in accordance with subsection (5) above.
- (9) References in this section to responsibilities being assumed by a person under the terms of a charter-party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter-party or management agreement providing for them to be assumed by some other person.

## **99 Use of unsafe lighters, etc.**

- (1) If any person uses or causes or permits to be used in navigation any lighter, barge or like vessel when, because of—
- (a) the defective condition of its hull or equipment,
  - (b) overloading or improper loading, or
  - (c) undermanning,
- it is so unsafe that human life is thereby endangered, he shall be liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to a fine.
- (2) Proceedings for an offence under this section shall not be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State; or
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State.

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- (3) This section does not affect the liability of the owners of any lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried in the vessel.

**100 Owner liable for unsafe operation of ship.**

- (1) It shall be the duty of the owner of a ship to which this section applies to take all reasonable steps to secure that the ship is operated in a safe manner.
- (2) This section applies to—
- (a) any United Kingdom ship; and
  - (b) any ship which—
    - (i) is registered under the law of any country outside the United Kingdom, and
    - (ii) is within United Kingdom waters while proceeding to or from a port in the United Kingdom,
 unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.
- (3) If the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (1) above, he shall be liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (4) Where any such ship—
- (a) is chartered by demise, or
  - (b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 98,
- any reference to the owner of the ship in subsection (1) or (3) above shall be construed as including a reference—
- (i) to the charterer under the charter by demise, or
  - (ii) to any such manager as is referred to in paragraph (b) above, or
  - (iii) (if the ship is both chartered and managed as mentioned above) to both the charterer and any such manager,
- and accordingly the reference in subsection (1) above to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.
- (5) No proceedings for an offence under this section shall be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

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## *f<sup>F16</sup> Temporary exclusion zones*

### **Textual Amendments**

**F16** Ss. 100A, 100B and crossheading inserted (23.3.1997) by 1997 c. 28, s. 1; S.I. 1997/1082, art.2, Sch.

### **<sup>F17</sup>100A Power to establish temporary exclusion zones.**

- (1) Subsection (2) below applies where a ship, structure or other thing—
  - (a) is in United Kingdom waters or a part of the sea specified by virtue of section 129(2)(b); and
  - (b) is wrecked, damaged or in distress;and in this section and section 100B “the relevant casualty” means that ship, structure or other thing.
- (2) If it appears to the Secretary of State—
  - (a) that significant harm will or may occur as a direct or indirect result of the relevant casualty being wrecked, damaged or in distress, and
  - (b) that if access to an area around the relevant casualty were restricted in accordance with section 100B, significant harm, or the risk of such harm, would be prevented or reduced,he may by direction identify an area to which access is so restricted (“a temporary exclusion zone”).
- (3) In this section “significant harm” means—
  - (a) significant pollution in the United Kingdom, in United Kingdom waters or in a part of the sea specified by virtue of section 129(2)(b); or
  - (b) significant damage to persons or property.
- (4) A temporary exclusion zone may not include any area which is neither within United Kingdom waters nor within a part of the sea specified by virtue of section 129(2)(b).
- (5) If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is larger than is needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction vary the direction establishing the zone accordingly.
- (6) Subject to subsections (4) and (5) above, a temporary exclusion zone may be identified by reference to the position of the relevant casualty from time to time.
- (7) If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is not needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction revoke the direction establishing the zone.
- (8) Where the Secretary of State gives a direction under this section, he shall—
  - (a) as soon as practicable, publish it in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it; and
  - (b) within the period of 24 hours from the giving of the direction, send a copy of it to the International Maritime Organization.
- (9) Subsection (2) above does not apply where an order under section 2 of the <sup>M14</sup>Protection of Wrecks Act 1973 has effect in relation to the relevant casualty.

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#### Textual Amendments

**F17** Ss. 100A, 100B inserted (23.3.1997) by 1997 c. 28, s. 1; S.I. 1997/1082, art. 2, Sch.

#### Marginal Citations

**M14** 1973 c. 33.

### <sup>F18</sup>100B Temporary exclusion zones: offences

- (1) If a direction establishing a temporary exclusion zone contains a statement of a description mentioned in subsection (2) below, then, subject to subsection (4) below, no ship shall enter or remain in the zone.
- (2) The statement is one to the effect that the direction is given for the purpose of preventing or reducing significant pollution, or the risk of significant pollution, in the United Kingdom, in United Kingdom waters or in a part of the sea specified by virtue of section 129(2)(b).
- (3) If a direction establishing a temporary exclusion zone does not contain a statement of a description mentioned in subsection (2) above, then, subject to subsections (4) and (5) below—
  - (a) no ship shall enter or remain in any part of the zone that is in United Kingdom waters; and
  - (b) no United Kingdom ship shall enter or remain in any part of the zone that is in a part of the sea specified by virtue of section 129(2)(b).
- (4) A ship may enter or remain in a temporary exclusion zone or a part of such a zone if it does so—
  - (a) in accordance with the direction establishing the zone;
  - (b) with the consent of the Secretary of State; or
  - (c) in accordance with regulations made by the Secretary of State for the purposes of this section.
- (5) A qualifying foreign ship may enter a temporary exclusion zone or a part of such a zone if in doing so it is exercising the right of transit passage through straits used for international navigation.
- (6) If a ship enters or remains in a temporary exclusion zone or a part of such a zone in contravention of subsection (1) or (3) above then, subject to subsection (7) below, its owner and its master shall each be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (7) It shall be a defence for a person charged with an offence under this section to prove that the existence or area of the temporary exclusion zone was not, and would not on reasonable enquiry have become, known to the master.]

#### Textual Amendments

**F18** Ss. 100A, 100B inserted (23.3.1997) by 1997 c. 28, s. 1; S.I. 1997/1082, art. 2, Sch.

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*[<sup>F19</sup> Power to require ships to be moved]*

**Textual Amendments**

**F19** Ss. 100C-100E and crossheading inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, Sch.

**<sup>F20</sup>100C Power to require ships to be moved.**

- (1) The powers conferred by this section shall be exercisable where a ship in United Kingdom waters—
  - (a) is not a qualifying foreign ship, or
  - (b) is such a ship but appears to the Secretary of State to be exercising neither of the following rights—
    - (i) the right of innocent passage, and
    - (ii) the right of transit passage through straits used for international navigation.
- (2) Subject to subsection (3) below, the Secretary of State may, for any one or more of the purposes specified in subsection (4) below, give directions to any of the persons specified in subsection (5) below requiring—
  - (a) that the ship is to be moved, or is to be removed from a specified area or locality or from United Kingdom waters, or
  - (b) that the ship is not to be moved to a specified place or area within United Kingdom waters, or over a specified route within United Kingdom waters.
- (3) The power of the Secretary of State under subsection (2)(a) above to require a ship to be removed from United Kingdom waters is not exercisable in relation to a United Kingdom ship.
- (4) The purposes referred to in subsection (2) above are—
  - (a) the purpose of securing the safety of the ship or of other ships, of persons on the ship or other ships, or of any other persons or property, or of preventing or reducing any risk to such safety, and
  - (b) the purpose of preventing or reducing pollution in the United Kingdom, in United Kingdom waters or in a part of the sea specified by virtue of section 129(2)(b), or of preventing or reducing any risk of such pollution.
- (5) The persons referred to in subsection (2) above are—
  - (a) the owner of the ship or any person in possession of the ship, or
  - (b) the master of the ship.
- (6) If in the opinion of the Secretary of State the powers conferred by subsection (2) above are, or have proved to be, inadequate for any of the purposes specified in subsection (4) above, the Secretary of State may for that purpose take any such action as he has power to require to be taken by a direction under this section.
- (7) The powers of the Secretary of State under subsection (6) above shall also be exercisable by such persons as may be authorised for the purpose by the Secretary of State.
- (8) Every person concerned with compliance with directions given, or with action taken, under this section shall use his best endeavours to avoid any risk to human life.

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- (9) It is hereby declared that any action taken as respects a ship which is under arrest or as respects the cargo of such a ship, being action duly taken in pursuance of a direction given under this section, or being any action taken under subsection (6) or (7) above—
- (a) does not constitute contempt of court; and
  - (b) does not in any circumstances make the Admiralty Marshal liable in any civil proceedings.
- (10) In this section—
- (a) unless a contrary intention appears, “specified” in relation to a direction under this section, means specified by the direction; and
  - (b) the reference in subsection (9) above to the Admiralty Marshal includes a reference to the Admiralty Marshal of the Supreme Court of Northern Ireland.

#### Textual Amendments

**F20** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, Sch.

#### <sup>F21</sup> 100D Offences in relation to section 100C.

- (1) If the person to whom a direction is duly given under section 100C contravenes, or fails to comply with, any requirement of the direction, he shall be guilty of an offence.
- (2) If a person intentionally obstructs any person who is—
  - (a) acting on behalf of the Secretary of State in connection with the giving or service of a direction under section 100C;
  - (b) acting in compliance with a direction under that section; or
  - (c) acting under section 100C(6) or (7);
 he shall be guilty of an offence.
- (3) In proceedings for an offence under subsection (1) above, it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the direction, or that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.
- (4) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to a fine.

#### Textual Amendments

**F21** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, Sch.

#### <sup>F22</sup> 100E Service of directions under section 100C.

- (1) If the Secretary of State is satisfied that a company or other body is not one to which section 695 or section 725 of the <sup>M15</sup>Companies Act 1985 (service of notices) applies so as to authorise the service of a direction on that body under either of those sections, he may give a direction under section 100C of this Act to that body, as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship.



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- (2) For the purpose of giving or serving a direction under section 100C to or on any person on a ship, a person acting on behalf of the Secretary of State shall have the right to go on board the ship.
- (3) In the application of subsection (1) above to Northern Ireland, for references to sections 695 and 725 of the <sup>M16</sup>Companies Act 1985 there shall be substituted references to Articles 645 and 673 of the <sup>M17</sup>Companies (Northern Ireland) Order 1986.]

#### Textual Amendments

**F22** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, Sch.

#### Marginal Citations

**M15** 1985 c. 6.

**M16** 1985 c. 6.

**M17** S.I. 1986/1032 (N.I. 6).

#### [<sup>F23</sup> 100F Requirements to be met by ships in respect of which trans-shipment licences in force.

- (1) In this section and section 100G “trans-shipment licence” means a licence under section 4A of the <sup>M18</sup>Sea Fish Conservation Act 1967 (prohibition of trans-shipment of fish unless authorised by a licence).
- (2) The Secretary of State may, for all or any of the purposes specified in subsection (3) below, by regulations prescribe requirements to be met by ships in respect of which trans-shipment licences are in force.
- (3) Those purposes are—
  - (a) the purpose of securing the safety of ships in respect of which trans-shipment licences are in force and persons on them,
  - (b) the purpose of protecting the health of persons on such ships,
  - (c) the purpose of securing the safety of any other persons or property, and
  - (d) the purpose of preventing or reducing pollution.
- (4) The matters with respect to which requirements may be prescribed under subsection (2) above include, in particular, the construction and equipment of ships, the manning of ships, and operational matters.
- (5) Without prejudice to the generality of subsection (2) above, regulations under that subsection may apply in relation to a ship in respect of which a trans-shipment licence is in force any requirements contained in—
  - (a) safety regulations,
  - (b) regulations under section 128, or
  - (c) any international agreement,whether or not those requirements would otherwise apply in relation to that ship.]

#### Textual Amendments

**F23** Ss. 100F-100G inserted (19.3.1997) by 1997 c. 28, ss. 11, 31(4)

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### Marginal Citations

M18 1967 c. 84.

## <sup>F24</sup>100G Failure to comply with prescribed standards in respect of ship in respect of which trans-shipment licence is in force.

- (1) If it appears to the Secretary of State that any requirement of regulations under section 100F(2) or regulations under section 192A is being contravened in respect of a ship in respect of which a trans-shipment licence is in force, he may serve on the master a notice under subsection (2) below.
- (2) A notice under this subsection must specify the contravention by reason of which it is given and must—
  - (a) prohibit the receiving by the ship of fish trans-shipped from another ship,
  - (b) prohibit the processing of fish on the ship, or
  - (c) prohibit both such receiving and such processing.
- (3) The Secretary of State shall revoke a notice under subsection (2) above if he is satisfied that the contravention specified in it has been remedied.
- (4) If a trans-shipment licence ceases to be in force in respect of a ship to which a notice under subsection (2) above relates, the notice is revoked by virtue of this subsection.
- (5) If without reasonable excuse the master of a ship causes or permits any prohibition imposed by a notice under subsection (2) above to be contravened in respect of the ship, he shall be liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (6) The obligation imposed by regulations under section 100F(2) shall not be enforceable except in accordance with this section, but this subsection does not limit the powers conferred by section 258.

### Textual Amendments

F24 Ss. 100F-100G inserted (19.3.1997) by 1997 c. 28, ss. 11, 31(4)

### *Control of, and returns as to, persons on ships*

## 101 Offences in connection with passenger ships.

- (1) A person commits an offence if, in relation to a ship to which this section applies, he does any of the following things, that is to say—
  - (a) if, being drunk or disorderly, he has been on that account refused admission to the ship by the owner or any person in his employment, and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;
  - (b) if, being drunk or disorderly on board the ship, he is requested by the owner or any person in his employment to leave the ship at any place in the United Kingdom at which he can conveniently do so, and, after having the amount

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of his fare (if he has paid it) returned or tendered to him, does not comply with the request;

- (c) if, on board the ship, after warning by the master or other officer thereof, he molests or continues to molest any passenger;
- (d) if, after having been refused admission to the ship by the owner or any person in his employment on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, he nevertheless persists in attempting to enter the ship;
- (e) if, having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in his employment to leave the ship before it has left that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, he does not comply with that request;
- (f) if, on arriving in the ship at a point to which he has paid his fare, he knowingly and intentionally refuses or neglects to leave the ship; and
- (g) if, on board the ship he fails, when requested by the master or other officer thereof, either to pay his fare or show such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the ship;

but his liability in respect of any such offence shall not prejudice the recovery of any fare payable by him.

- (2) A person commits an offence if, on board any ship to which this section applies he intentionally does or causes to be done anything in such a manner as to—
  - (a) obstruct or damage any part of the machinery or equipment of the ship, or
  - (b) obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.
- (3) The master or other officer of any ship to which this section applies, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against subsection (1) or (2) above and whose name and address are unknown to the master or officer, and deliver that person to a constable.
- (4) A person guilty of an offence against subsection (1) or (2) above shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (5) If any person commits an offence against subsection (1) or (2) above and on the application of the master of the ship, or any other person in the employment of the owner thereof, refuses to give his name and address, or gives a false name or address, that person shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (6) This section applies to a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by safety regulations.

## **102 Power to exclude drunken passengers from certain passenger ships.**

- (1) The master of any ship to which this section applies may refuse to receive on board any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient place.

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- (2) A person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.
- (3) This section applies to a ship (whether or not a United Kingdom ship) carrying more than 12 passengers and employed in carrying passengers between places in the limited European trading area as for the time being defined in regulations made under section 47 by the Secretary of State.

### **103 Stowaways.**

- (1) If a person, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a United Kingdom ship, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Nothing in section 281 shall be taken to limit the jurisdiction of any court in the United Kingdom to deal with an offence under this section which has been committed in a country outside the United Kingdom by a person who is not a British citizen.

### **104 Unauthorised presence on board ship.**

Where a United Kingdom ship or a ship registered in any other country is in a port in the United Kingdom and a person who is neither in Her Majesty's service nor authorised by law to do so—

- (a) goes on board the ship without the consent of the master or of any other persons authorised to give it; or
- (b) remains on board the ship after being requested to leave by the master, a constable, an officer authorised by the Secretary of State or an officer of customs and excise,

he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **105 Master's power of arrest.**

The master of any United Kingdom ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

### **106 Unauthorised persons: offences relating to safety.**

- (1) Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship in pursuance of section 73(5)(b), sections 58 and 59 shall apply as if he were a seaman employed in the ship.
- (2) Subsection (1) above shall, in its application to section 58 so far as that section applies to ships which are not sea-going ships have effect—
  - (a) with the omission of the words “goes to sea in a ship”; and
  - (b) with the insertion, after the words “to give it”, of the words “ is on board a ship while it is on a voyage or excursion ”.
- (3) This section does not apply to fishing vessels.

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## **107 Return to be furnished by masters of ships as to passengers.**

- (1) The master of every ship, whether or not a United Kingdom ship, which carries any passenger to a place in the United Kingdom from any place out of the United Kingdom, or from any place in the United Kingdom to any place out of the United Kingdom, shall furnish to such person and in such manner as the Secretary of State directs a return giving the total number of any passengers so carried, distinguishing, if so directed by the Secretary of State, the total number of any class of passengers so carried, and giving, if the Secretary of State so directs, such particulars with respect to passengers as may be for the time being required by the Secretary of State.
- (2) Any passenger shall furnish the master of the ship with any information required by him for the purpose of the return.
- (3) If—
  - (a) the master of a ship fails to make a return as required by this section, or makes a false return,
  - (b) any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or, for that purpose, gives to the master information which he knows to be false or recklessly gives to him information which is false,

the master or (as the case may be) passenger shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale in the case of a failure or refusal and level 3 on the standard scale in the case of a false return or false information.

## **108 Returns of births and deaths in ships, etc.**

- (1) The Secretary of State may make regulations under the following provisions of this section in relation to births and deaths in the circumstances specified in those provisions.
- (2) Regulations under this section may require the master of any United Kingdom ship to make a return to a superintendent or proper officer of—
  - (a) the birth or death of any person occurring in the ship; and
  - (b) the death of any person employed in the ship, wherever occurring outside the United Kingdom;and to notify any such death to such person (if any) as the deceased may have named to him as his next of kin.
- (3) Regulations under this section may require the master of any ship not registered in the United Kingdom which calls at a port in the United Kingdom in the course of or at the end of a voyage to make a return to a superintendent of any birth or death of a British citizen, a British Dependent Territories citizen or a British Overseas citizen which has occurred in the ship during the voyage.
- (4) The returns referred to in subsections (2) and (3) above shall be for transmission to the Registrar General of Shipping and Seamen.
- (5) Regulations under this section may require the Registrar General of Shipping and Seamen to record such information as may be specified in the regulations about such a death as is referred to in subsection (2) above in a case where—
  - (a) it appears to him that the master of the ship cannot perform his duty under that subsection because he has himself died or is incapacitated or missing; and

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- (b) any of the circumstances specified in subsection (6) below exist.
- (6) Those circumstances are that—
- (a) the death in question has been the subject of—
- (i) an inquest held by a coroner,
  - (ii) an inquiry held in pursuance of section 271, or
  - (iii) an inquiry held in pursuance of the <sup>M19</sup>Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976;
- and the findings of the inquest or inquiry include a finding that the death occurred;
- (b) the deceased's body has been the subject of—
- (i) a post-mortem examination in England and Wales, or
  - (ii) a preliminary investigation in Northern Ireland;
- and in consequence the coroner is satisfied that an inquest is unnecessary; or
- (c) in Scotland, it does not appear to the Lord Advocate, under section 1(1)(b) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, to be expedient in the public interest that an inquiry under that Act should be held.
- (7) Regulations under this section may require the Registrar General of Shipping and Seamen to send a certified copy of any return or record made thereunder to the Registrar General for England and Wales, the Registrar General of Births, Deaths and Marriages for Scotland or the Registrar General for Northern Ireland, as the case may require.
- (8) The Registrar General to whom any such certified copies are sent—
- (a) shall record the information contained therein in the marine register; and
  - (b) may record in the marine register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register;
- and the enactments relating to the registration of births and deaths in England, Scotland and Northern Ireland shall have effect as if the marine register were a register of births (other than stillbirths) or deaths or certified copies of entries in such a register had been transmitted to the Registrar General in accordance with those enactments.
- (9) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (10) Regulations under this section may contain provisions authorising the registration of the following births and deaths occurring outside the United Kingdom in circumstances where no return is required to be made under the preceding provisions of this section—
- (a) any birth or death of a British citizen, a British Dependent Territories citizen or a British Overseas citizen which occurs in a ship not registered in the United Kingdom;
  - (b) any death of any such citizen who has been employed in a ship not registered in the United Kingdom which occurs elsewhere than in the ship; and
  - (c) any death of a person who has been employed in a United Kingdom ship which occurs elsewhere than in the ship.
- (11) References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.

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**Marginal Citations**

M19 1976 c. 14

**PART V**

FISHING VESSELS

**CHAPTER I**

SKIPPER AND SEAMEN

*Engagement and discharge of crews*

**109 Regulations relating to crew agreements.**

- (1) The Secretary of State may make regulations prescribing the procedure to be followed in connection with the making of crew agreements between persons employed in United Kingdom fishing vessels and persons employing them and prescribing the places where such crew agreements are to be made or where an agreement with any person may be added to those contained in such a crew agreement.
- (2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

*Wages*

**110 Payments of seamen's wages.**

Except as provided by or under Part III or any other enactment, the wages due to a seaman under a crew agreement relating to a United Kingdom fishing vessel shall be paid to him in full.

PROSPECTIVE

**111 Regulations relating to wages: deductions.**

The power to make regulations conferred by section 32 shall include power to provide that the amount of a deduction of a description specified in the regulations from wages in respect of employment in a fishing vessel is to be determined by a body established or approved by the Secretary of State in pursuance of regulations made under section 60.

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### Commencement Information

**I3** S. 111 not in force at Royal Assent see s. 134, Sch. 14 para. 5

## 112 Accounts of wages and catch.

- (1) Subject to regulations made under section 32 or 73, the persons employing any seaman under a crew agreement relating to a United Kingdom fishing vessel shall deliver to him at a time prescribed by regulations under this section an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.
- (2) Where the wages of any person employed in a United Kingdom fishing vessel are in any manner related to the catch the persons employing him shall at a time prescribed by regulations under this section deliver to the master an account (or, if the master is the person employing him, make out an account) showing how those wages (or any part thereof related to the catch) are arrived at and shall make the account available to the crew in such manner as may be prescribed by the regulations.
- (3) Where there is a partnership between the master and any members of the crew of a United Kingdom fishing vessel the owner of the vessel shall at a time prescribed by regulations under this section make out an account showing the sums due to each partner in respect of his share and shall make the account available to the partners.
- (4) The Secretary of State may make regulations prescribing the time at which any account required by this section is to be delivered or made out and the manner in which the account required by subsections (2) and (3) above is to be made available.
- (5) If a person fails without reasonable excuse to comply with the preceding provisions of this section he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## 113 Restriction on assignment of and charge upon wages.

- (1) Nothing in section 34 shall affect the operation of—
  - (a) the <sup>M20</sup>Attachment of Earnings Act 1971, or
  - (b) without prejudice to Article 97(2) of the <sup>M21</sup>Judgments Enforcement (Northern Ireland) Order 1981, Articles 73 to 79 and 97 to 105 of that Order,
 in relation to wages due to a person employed in a fishing vessel.
- (2) The provisions of the <sup>M22</sup>Magistrates' Courts (Northern Ireland) Order 1981 and the Judgments Enforcement (Northern Ireland) Order 1981 relating to the attachment of wages shall apply in relation to wages due to a person employed in a fishing vessel as they apply in relation to other wages.

### Marginal Citations

**M20** 1971 c. 32.

**M21** S.I. 1981/226 (NI 6).

**M22** S.I. 1981/1675 (NI 26).



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#### **114 Right, or loss of right, to wages in certain circumstances.**

Section 38 does not apply to so much of the wages of a seaman employed in a fishing vessel as is in any manner related to the catch.

PROSPECTIVE

#### *Safety, health and welfare*

#### **115 Hours of work.**

- (1) The Secretary of State may make regulations prescribing maximum periods of duty and minimum periods of rest for seamen employed in United Kingdom fishing vessels, and such regulations may make different provision for different descriptions of fishing vessels or seamen employed in them or for fishing vessels and seamen of the same description in different circumstances.
- (2) If any provision of regulations made under this section is contravened in the case of any seaman employed in a fishing vessel the persons employing him and the master shall each be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **Commencement Information**

**I4** [S. 115](#) not in force at Royal Assent see [s. 134](#), [Sch. 14 para. 5](#)

#### *Manning and qualifications*

#### **116 Production of crew certificates and other documents of qualification.**

- (1) Any person serving or engaged to serve in a United Kingdom fishing vessel and holding any certificate or other document which is evidence that he is qualified for the purposes of section 47 shall on demand produce it to any person who is a British sea-fishery officer for the purposes of the Sea Fisheries Acts.
- (2) If a person fails without reasonable excuse to produce on demand any such certificate or other document he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this section the “Sea Fisheries Acts” means any enactment for the time being in force relating to sea fishing, including any enactment relating to fishing for shellfish, salmon or migratory trout.

#### **Commencement Information**

**I5** [S. 116](#) wholly in force; [s. 116](#) not in force at Royal Assent see [s. 314](#), [Sch. 14 para. 5](#); [s. 116](#) in force at 1.2.1998 by [S.I. 1997/3107](#), [art. 2](#)

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### *Offences by seamen*

#### **117 Drunkenness on duty.**

- (1) If the skipper of or a seaman employed or engaged in a United Kingdom fishing vessel is, while on board the vessel, under the influence of drink or a drug to such an extent that his capacity to fulfil his responsibility for the vessel or, as the case may be, carry out the duties of his employment or engagement is impaired, he shall (subject to subsection (2) below) be liable-
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) In proceedings for an offence under this section it shall be a defence to prove that at the time of the act or omission alleged against the accused he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had.

PROSPECTIVE

#### **118 Unauthorised liquor.**

- (1) A person who, in the United Kingdom or elsewhere—
  - (a) takes any unauthorised liquor on board a United Kingdom fishing vessel;
  - (b) has any unauthorised liquor in his possession on board such a vessel;
  - (c) permits another person to take on board such a vessel, or to have in his possession on board such a vessel, any unauthorised liquor; or
  - (d) intentionally obstructs another person in the exercise of powers conferred on the other person by subsection (5) below,
 shall, subject to subsections (3) and (4) below, be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (3) It shall be a defence in proceedings for an offence under subsection (1)(a) or (b) above to prove—
  - (a) that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he had reasonable grounds for the belief; or
  - (b) that the accused did not know that the liquor in question was in his possession.
- (4) It shall be a defence in proceedings for an offence under subsection (1)(c) above to prove that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he had reasonable grounds for the belief.
- (5) If an authorised person has reason to believe that an offence under subsection (1)(a) or (b) above has been committed by another person in connection with a fishing vessel, the authorised person—

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- (a) may go on board the vessel and search it and any property on it and may, if the other person is on board the vessel, search him there in an authorised manner; and
  - (b) may take possession of any liquor which he finds on the vessel and has reason to believe is unauthorised liquor and may detain the liquor for the period needed to ensure that the liquor is available as evidence in proceedings for the offence.
- (6) In this section—
- “an authorised manner” means a manner authorised by regulations made by the Secretary of State;
  - “authorised person”, in relation to a vessel, means—
    - (a) a superintendent;
    - (b) a proper officer;
    - (c) a person appointed in pursuance of section 258(1)(c);
    - (d) the master of the vessel in question;
    - (e) the owner of the vessel in question;
    - (f) any person instructed by the master or owner to prevent the commission of offences under subsection (1) above in relation to the vessel;
  - “liquor” means spirits, wine, beer, cider, perry and any other fermented, distilled or spirituous liquor; and
  - “unauthorised liquor” means, in relation to a vessel, liquor as to which permission to take it on board the vessel has been given neither by the master nor the owner of the vessel nor by a person authorised by the owner of the vessel to give such permission.
- (7) Any reference in subsection (6) above to the owner of a vessel shall be construed—
- (a) as excluding any member of the crew of the vessel; and
  - (b) subject to that, as a reference to the person or all the persons who, in the certificate of registration of the vessel, is or are stated to be the registered owner or owners of the vessel.

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**Commencement Information**

**I6** S. 118 not in force at Royal Assent see s. 314, Sch. 14 para. 5

## 119 Disciplinary offences.

- (1) Section 59(1)(a) and (b) shall not apply to fishing vessels and persons serving in them.
- (2) In relation to United Kingdom fishing vessels, section 60 shall have effect with the substitution for subsection (2) of the following—
  - (2) Regulations may provide for the hearing on shore in the United Kingdom, by a disciplinary body, of a complaint by the master or owner of such a fishing vessel against a seaman alleging that during his employment in the vessel, the seaman contravened a local industrial agreement relating to his employment on the vessel and for requiring the disciplinary body to have regard to the agreement in determining whether the allegation is proved.

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The alleged contravention may be one on or off the ship and in the United Kingdom or elsewhere.

- (3) Regulations under section 60 may include provision authorising persons to determine, for the purposes of that section in its application to United Kingdom fishing vessels what agreements are or were local industrial agreements and which local industrial agreement relates or related to a person's employment in a particular vessel.

#### Commencement Information

I7 S. 119 partly in force; s. 119(1) in force at 1.1.1996, see ss. 314, 316(2), Sch. 14 para. 5

### Exemptions

#### 120 Power to grant exemptions from this Chapter.

The Secretary of State may grant exemptions from any requirements of Part III or this Chapter or of any regulations made thereunder—

- (a) with respect to any fishing vessel or to a fishing vessel of any description; or
- (b) with respect to any person or a person of any description serving in a fishing vessel or in a fishing vessel of any description;

and nothing in any other provision of Part III or this Chapter conferring a power to provide for or grant exemptions shall be taken to restrict the power conferred by this section.

## CHAPTER II

### SAFETY

#### 121 Fishing vessel construction rules.

- (1) The Secretary of State may make rules (in this Chapter referred to as “fishing vessel construction rules”) prescribing requirements for the hull, equipment and machinery of United Kingdom fishing vessels of any description (including any description framed by reference to the areas in which the vessels operate or the dates on which they were first registered in the United Kingdom or on which their construction was begun).
- (2) The Secretary of State may exempt any fishing vessel or description of fishing vessel from any requirement of the fishing vessel construction rules.
- (3) He may do so generally or for a specified time or with respect to a specified voyage or to voyages in a specified area, and may do so subject to any specified conditions.
- (4) A surveyor of ships may inspect any fishing vessel for the purpose of seeing that it complies with the fishing vessel construction rules.
- (5) If—
  - (a) the fishing vessel construction rules are contravened with respect to any vessel; or

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- (b) a vessel is, under subsection (2) above, exempted from any requirement subject to a condition and the condition is not complied with;  
the owner or master of the vessel shall be liable —
- (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to a fine.

## 122 Fishing vessel survey rules.

- (1) The Secretary of State may make rules (in this Chapter referred to as “fishing vessel survey rules”) for the surveying and periodical inspection of United Kingdom fishing vessels or any description of such fishing vessels, for the purpose of ensuring their compliance with the requirements of the fishing vessel construction and equipment provisions.
- (2) In this Chapter “the fishing vessel construction and equipment provisions” means fishing vessel construction rules and rules or safety regulations relating to life-saving, radio and navigational equipment for fishing vessels.

## 123 Fishing vessel certificates.

- (1) If the Secretary of State or any person authorised by him for the purpose is satisfied, on receipt of a declaration of survey in respect of a fishing vessel surveyed under the fishing vessel survey rules, that the vessel complies with such of the requirements of the fishing vessel construction and equipment provisions as are or will be applicable to the vessel, then, subject to subsection (2) below, the Secretary of State or person shall, on the application of the owner, issue a certificate (in this and the following sections referred to as a “fishing vessel certificate”) showing that the vessel complies with those requirements; and for this purpose any requirement from which the vessel has been exempted under section 121(2) or any other provision of this Act shall be deemed not to be applicable to it.
- (2) Fishing vessel survey rules may require, in the case of such fishing vessel certificate as may be specified in the rules, that the Secretary of State or person authorised to issue it shall not issue the certificate unless satisfied that the vessel in respect of which it is to be issued is provided with the lights, shapes and means of making fog signals required by safety regulations for the prevention of collisions.
- (3) A fishing vessel certificate shall be in such form as may be prescribed by the fishing vessel survey rules; and those rules may make provision for the duration, extension or cancellation of any such certificate and for the endorsement on it of information relating to the inspection, in accordance with the rules, of the vessel to which it relates and of any extension of the period for which the certificate was issued.

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### Modifications etc. (not altering text)

C6 S. 123 extended (1.12.1999) by S.I. 1999/2205, reg. 19

## 124 Provisions supplementary to section 123.

- (1) The Secretary of State may require a fishing vessel certificate which has expired or been cancelled, to be delivered up as he directs.

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- (2) If the owner or skipper of the fishing vessel fails without reasonable excuse to comply with a requirement made under subsection (1) above, he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) The owner or skipper of a fishing vessel to whom a fishing vessel certificate is issued shall forthwith, on the receipt of the certificate by him (or his agent), cause a copy of it to be put up in some conspicuous place on board the vessel, so as to be legible to all persons on board, and to be kept so put up and legible while the certificate remains in force and the vessel is in use.
- (4) If the owner or skipper of a fishing vessel fails without reasonable excuse to comply with subsection (3) above, he shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (5) If any person intentionally makes, or assists in making, or procures to be made, a false or fraudulent fishing vessel certificate he shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (6) In Scotland, if any person—
  - (a) forges, assists in forging or procures to be forged,
  - (b) fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered,
 any fishing vessel certificate he shall be liable—
  - (i) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
  - (ii) on conviction on indictment, to a fine or to imprisonment or to both.
- (7) A fishing vessel certificate shall be admissible in evidence.

## **125 Prohibition on going to sea without appropriate certificate.**

- (1) No fishing vessel required to be surveyed under the fishing vessel survey rules shall go to sea unless there are in force fishing vessel certificates showing that the vessel complies with such of the requirements of the fishing vessel construction and equipment provisions as are applicable to the vessel.
- (2) If a fishing vessel goes to sea in contravention of subsection (1) above the owner or skipper of the vessel shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (3) The skipper of any United Kingdom fishing vessel shall on demand produce to any officer of customs and excise or of the Secretary of State any certificate required by this Chapter; and [<sup>F25</sup>the fishing vessel, if in United Kingdom waters, may be detained] until the certificate is so produced.

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### Textual Amendments

**F25** Words in s. 125(3) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 3**; S.I. 1997/1082, art. 2, **Sch.**

## 126 Notice of alterations.

- (1) Where a fishing vessel certificate is in force in respect of a fishing vessel and—
- (a) the certificate shows compliance with requirements of the fishing vessel construction rules and an alteration is made in the vessel’s hull, equipment or machinery which affects the efficiency thereof or the seaworthiness of the vessel; or
  - (b) the certificate shows compliance with requirements of the fishing vessel equipment provisions and an alteration is made affecting the efficiency or completeness of the appliances or equipment which the vessel is required to carry by the fishing vessel equipment provisions;
- the owner or skipper shall, as soon as possible after the alteration is made, give written notice containing full particulars of it to the Secretary of State or, if the certificate was issued by another person, to that person.
- (2) If the notice required by subsection (1) above is not given as required by that subsection the owner or skipper shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this section—
- “alteration” in relation to anything includes the renewal of any part of it and
- “the fishing vessel equipment provisions” means the provisions of the fishing vessel construction and equipment provisions other than the fishing vessel construction rules.

PROSPECTIVE

### *Training*

## 127 Training in safety matters.

- (1) The Secretary of State may make regulations for securing that the skipper of and every seaman employed or engaged in a United Kingdom fishing vessel is trained in safety matters.
- (2) The regulations may provide that if a person goes to sea on a fishing vessel in contravention of a requirement of the regulations—
- (a) he commits an offence and is liable on summary conviction to a fine not exceeding level 2, or if he is the skipper or an owner of the vessel level 5, on the standard scale; and
  - (b) the skipper and each owner of the vessel is (except in respect of a contravention by himself) liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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- (3) Regulations under this section may make different provision for different cases, or descriptions of case, including different provisions for different descriptions of vessel or according to the circumstances of operation of a vessel.

#### Commencement Information

**I8** S. 127 not in force at Royal Assent see s. 314, Sch. 14 para. 5

## PART VI

### PREVENTION OF POLLUTION

#### CHAPTER I

##### POLLUTION GENERALLY

#### 128 Prevention of pollution from ships etc.

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to any provision of any of the following which have been ratified by the United Kingdom—
- (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973;
  - (b) the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil which constitutes attachment 2 to the final act aforesaid;
  - (c) the Protocol relating to the said Convention which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February 1978;
  - (d) the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (including the Final Act of the Conference and the attached resolutions) signed in London on 30th November 1990;
  - (e) any international agreement not mentioned in paragraphs (a) to (d) above which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships;
- and in paragraph (e) above the reference to an agreement includes an agreement which provides for the modification of another agreement, including the modification of an agreement mentioned in paragraphs (a) to (c) above.
- (2) The powers conferred by subsection (1) above to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force although the agreement has not come into force.
- (3) Without prejudice to the generality of subsection (1) above, an Order under that subsection may in particular include provision—



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- (a) for applying for the purpose mentioned in that subsection any enactment or instrument relating to the pollution of the sea or other waters and also any of sections 87, 268, 269 and 270;
- (b) with respect to the carrying out of surveys and inspections for the purpose aforesaid and the issue, duration and recognition of certificates for that purpose;
- (c) for repealing the provisions of any enactment or instrument so far as it appears to Her Majesty that those provisions are not required having regard to any provision made or proposed to be made by virtue of this section;
- (d) with respect to the application of the Order to the Crown and the extra-territorial operation of any provision made by or under the Order;
- (e) for the extension of any provisions of the Order, with or without modifications, to any relevant British possession;
- (f) that a contravention of a provision made by or under the Order shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
- (g) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale or such less amount as is prescribed by the Order;
- (h) in connection with offences created by or under the Order, corresponding to that made in connection with offences under section 131 by <sup>F26</sup>sections 143(6), 144]and 146 (whether by applying, or making provision for the application of, any of those sections, subject to such modifications as may be specified by or under the Order, or otherwise);
- (i) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship, for applying section 284 with such modifications, if any, as are prescribed by the Order;

and nothing in any of the preceding provisions of this subsection shall be construed as prejudicing the generality of any other of those provisions and in particular neither paragraph (f) nor (g) above shall prejudice paragraph (a) above.

<sup>F27</sup>(3A) An order under subsection (1) above in pursuance of paragraph (d) of that subsection may include provision imposing on local authorities responsibilities in relation to the preparation, review and implementation of any plans required by the agreement mentioned in that paragraph.]

- (4) An Order under subsection (1) above may—
  - (a) make different provision for different circumstances;
  - (b) make provision in terms of any document which the Secretary of State or any person considers relevant from time to time;
  - (c) provide for exemptions from any provisions of the Order;
  - (d) provide for the delegation of functions exercisable by virtue of the Order;
  - (e) include such incidental, supplemental and transitional provisions as appear to Her Majesty to be expedient for the purposes of the Order;
  - (f) authorise the making of regulations and other instruments for any of the purposes of this section (except the purposes of subsection (3)(a) and (c) above) <sup>F28</sup>. . . ; and
  - (g) provide that any enactment or instrument applied by the Order shall have effect as so applied subject to such modifications as may be specified in the Order.

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- (5) Where an Order in Council under subsection (1) above authorises the making of regulations for the purpose of giving effect to an agreement mentioned in paragraphs (a) to (d) or falling within paragraph (e) of that subsection the Order also authorises the making of regulations for the purpose of giving effect to an agreement which provides for the modification of such an agreement.

This subsection applies in relation to Orders in Council and international agreements whenever made.

- (6) Regulations made by virtue of paragraph (f) of subsection (4) above may make provision corresponding to the provision authorised for an Order by paragraphs (a) to (e) of subsection (4) above.
- (7) An Order in Council in pursuance of subsection (1)(b) or (e) above may apply to areas of land or sea or other United Kingdom waters notwithstanding that the agreement in question does not relate to those areas.
- (8) A draft of an Order in Council proposed to be made by virtue of subsection (1) above shall not be submitted to Her Majesty in Council unless—
- (a) the draft has been approved by a resolution of each House of Parliament;
  - (b) the Order is to contain a statement that it is made only for any of the purposes specified in subsection (9) below; or
  - (c) the Order extends only to a possession mentioned in subsection (3)(e) above.
- (9) The purposes referred to in subsection (8)(b) above are—
- (a) giving effect to an agreement mentioned in subsection (1)(a) to (d) above;
  - (b) providing as authorised by subsection (2) above in relation to such an agreement and the purposes of subsection (5) above;
- and a statutory instrument containing an Order which contains a statement that it is made only for any of those purposes shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F26** Words in s. 128(3)(h) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 3(2)**; S.I. 1997/1539, art. 2, **Sch.**
- F27** S. 128(3A) inserted (19.3.1997) by 1997 c. 28, **ss. 12, 31(4)**
- F28** Words in s. 128(4)(f) repealed (17.7.1997) by 1997 c. 28, s. 29(1)(2), **Sch. 6 para. 3(3)**, **Sch. 7 Pt. I**; S.I. 1997/1539, art. 2, **Sch.**

## 129 Further provision for prevention of pollution from ships.

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to any provision of the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) for the protection and preservation of the marine environment from pollution by matter from ships.
- (2) Without prejudice to the generality of subsection (1) above, an Order under that subsection may in particular include provision—
- (a) corresponding to any provision that is authorised for the purposes of section 128 by subsections (3) and (4) of that section; and

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- (b) specifying areas of sea above any of the areas for the time being designated under section 1(7) of the <sup>M23</sup>Continental Shelf Act 1964 as waters within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part XII of that Convention for the protection and preservation of the marine environment;  
and provision authorising the making of regulations authorises the amendment or revocation of regulations made by virtue of paragraph (f) of the said subsection (4).
- (3) A draft of an Order in Council proposed to be made by virtue of subsection (1) above shall not be submitted to Her Majesty in Council unless the draft has been approved by resolution of each House of Parliament.

#### Marginal Citations

M23 1964 c. 29.

### 130 Regulation of transfers between ships in territorial waters.

- (1) The Secretary of State may by regulations make, in relation to the transfer of cargo, stores, bunker fuel or ballast between ships while within United Kingdom waters, such provision as he considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.
- (2) Regulations under this section may, in particular, do any of the following things—
  - (a) prohibit transfers of any specified description or prohibit transfers if, or unless, carried out in specified areas, circumstances or ways;
  - (b) make provision about—
    - (i) the design of, and standards to be met by, ships and equipment,
    - (ii) the manning of ships, including the qualifications and experience to be possessed by persons of any specified description employed on board, and
    - (iii) the qualifications and experience to be possessed by persons (whether masters or not) controlling the carrying out of transfers or operations ancillary thereto;
  - (c) provide for proposed transfers to be notified to and approved by persons appointed by the Secretary of State or another person, and for the supervision of transfers, and the inspection of ships and equipment, by persons so appointed;
  - (d) provide—
    - (i) for the procedure to be followed in relation to the approval of transfers to be such as may be prescribed by any document specified in the regulations, and
    - (ii) for references in the regulations to any document so specified to operate as references to that document as revised or re-issued from time to time;
  - (e) provide for the making and keeping of records about ships and equipment, the issuing of certificates, and the furnishing of information;
  - (f) provide for the granting by the Secretary of State or another person of exemptions from specified provisions of the regulations, on such terms (if

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- any) as the Secretary of State or that other person may specify, and for altering or cancelling exemptions;
- (g) limit any provision of the regulations to specified cases or kinds of case.
- (3) Regulations under this section may provide—
- (a) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding £25,000 and on conviction on indictment by imprisonment for a term not exceeding two years or a fine or both;
  - (b) that any such contravention shall be an offence punishable only on summary conviction by a fine not exceeding £25,000 or such lower amount as is prescribed by the regulations;
  - (c) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (a) or (b) above.
- (4) Regulations under this section may—
- (a) make different provision for different classes or descriptions of ships and for different circumstances; and
  - (b) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient.

## [<sup>F29</sup>CHAPTER IA

### WASTE RECEPTION FACILITIES AT HARBOURS

#### Textual Amendments

**F29** Pt. VI Ch. IA (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

#### <sup>F30</sup>130A General.

- (1) The Secretary of State may by regulations make such provision as he considers appropriate in relation to—
  - (a) the provision at harbours in the United Kingdom of facilities for the reception of waste from ships (in this Chapter referred to as “waste reception facilities”); and
  - (b) the use of waste reception facilities provided at such harbours.
- (2) In making the regulations, the Secretary of State shall take into account the need to give effect to provisions—
  - (a) which are contained in any international agreement mentioned in section 128(1) which has been ratified by the United Kingdom; and
  - (b) which relate to waste reception facilities.
- (3) Sections 130B to 130D make further provision with respect to the regulations that may be made under this section.

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### Textual Amendments

**F30** Pt. VI Ch. 1A (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

### <sup>F31</sup>130B Waste management plans.

- (1) The regulations may make provision requiring a harbour authority for a harbour in the United Kingdom—
  - (a) in such circumstances as may be prescribed, to prepare a plan with respect to the provision and use of waste reception facilities at the harbour; and
  - (b) to submit the plan to the Secretary of State for approval.
- (2) The regulations may make provision requiring a person—
  - (a) if directed to do so by the Secretary of State, to prepare a plan with respect to the provision and use of waste reception facilities at any terminals operated by him within a harbour which is in the United Kingdom and is specified in the direction; and
  - (b) to submit the plan to the Secretary of State for approval.
- (3) For the purposes of this Chapter—
  - (a) “terminal” means any terminal, jetty, pier, floating structure or other works within a harbour at which ships can obtain shelter or ship and unship goods or passengers; and
  - (b) a person operates a terminal if activities at the terminal are under his control.
- (4) In the following provisions of this section, “waste management plan” means a plan of a description mentioned in subsection (1) or (2) above.
- (5) The regulations may make provision with respect to the form and content of waste management plans and may in particular require such plans to include—
  - (a) proposals as to the information to be provided about waste reception facilities to those who are expected to use them;
  - (b) proposals designed to ensure that adequate provision will be made for the disposal of waste deposited in waste reception facilities; and
  - (c) proposals about how costs incurred in establishing and running waste reception facilities will be recovered.
- (6) The regulations may require a person preparing a waste management plan to have regard to such matters as the Secretary of State may prescribe or in a particular case direct.
- (7) The regulations may make provision as to the procedures to be followed in connection with waste management plans and may in particular—
  - (a) require a person preparing a waste management plan to consult such persons as the Secretary of State may prescribe or in a particular case direct;
  - (b) enable the Secretary of State to approve waste management plans with or without modification or to reject such plans;
  - (c) enable the Secretary of State, if he is satisfied that a person who is required to prepare a waste management plan is not taking any steps necessary in connection with the preparation of the plan, to prepare such a plan;

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- (d) require harbour authorities and persons operating terminals to implement waste management plans once approved, or to take such steps as the Secretary of State may in a particular case direct for the purpose of securing that approved plans are implemented;
- (e) enable waste management plans, in such circumstances as may be prescribed, to be withdrawn, altered or replaced.

#### Textual Amendments

**F31** Pt. VI Ch. 1A (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

### <sup>F32</sup>130C Charges for and use of waste reception facilities.

- (1) The regulations may make provision enabling a statutory harbour authority, on levying ship, passenger and goods dues, to impose charges for the purpose of recovering the whole or a part of the costs of the provision by or on behalf of the authority of waste reception facilities at the harbour.
- (2) The regulations may make provision requiring the master of a ship—
  - (a) if reasonably required to do so by a Departmental officer, or
  - (b) in such other circumstances as may be prescribed,
 to deposit any waste carried by the ship, or any prescribed description of such waste, in waste reception facilities provided at a harbour in the United Kingdom.
- (3) The regulations may make provision—
  - (a) for the reference to arbitration of questions as to whether requirements made under regulations made in pursuance of subsection (2)(a) above were reasonable, and
  - (b) for compensation to be payable by the Secretary of State where a requirement is found to have been unreasonable.
- (4) The regulations may make—
  - (a) provision prohibiting the imposition by persons providing waste reception facilities at harbours in the United Kingdom of charges for the depositing of waste, or any prescribed description of waste, in the facilities; or
  - (b) provision authorising the imposition by such persons of such charges subject to such restrictions as may be prescribed.
- (5) The regulations may provide for charges to be imposed by virtue of subsection (4) (b) above—
  - (a) even though the charges are for the depositing of waste in compliance with a requirement imposed by virtue of subsection (2) above; and
  - (b) even though charges are also imposed by virtue of subsection (1) above.
- (6) Subsections (7) to (9) below apply if the regulations make provision enabling a statutory harbour authority to impose charges of a description mentioned in subsection (1) above.
- (7) The regulations may require information about the charges to be published in a way that is designed to bring the charges to the notice of persons likely to be affected.

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- (8) The regulations may provide for the charges to be reduced at the instance of the Secretary of State following the making of an objection by a person of a prescribed description.
- (9) Regulations made by virtue of subsection (8) above may in particular make provision which corresponds to that made by section 31(3) to (12) of the <sup>M24</sup>Harbours Act 1964.
- (10) The regulations may make provision as to the recovery of any charges imposed by virtue of this section.

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**Textual Amendments**

**F32** Pt. VI Ch. IA (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

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**Marginal Citations**

**M24** 1964 c. 40.

<sup>F33</sup>**130D Supplementary.**

- (1) The regulations may provide that where a person contravenes a requirement under the regulations he is guilty of an offence and is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (2) The regulations may—
  - (a) provide for exemptions from any provision of the regulations;
  - (b) provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time;
  - (c) make different provision for different cases;
  - (d) include such incidental, supplemental and transitional provision as appears to the Secretary of State to be expedient.
- (3) Regulations under section 130A which contain any provision of a description mentioned in section 130C (whether or not they also contain other provision) shall not be made unless a draft of the statutory instrument containing the regulations has been laid before and approved by a resolution of each House of Parliament.
- (4) A statutory instrument containing regulations under section 130A to which subsection (3) above does not apply (including regulations which revoke provision of a description mentioned in section 130C but do not contain any other provision made by virtue of section 130C) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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**Textual Amendments**

**F33** Pt. VI Ch. IA (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

<sup>F34</sup>**130E Interpretation of Chapter IA.**

In this Chapter—

**Status:** Point in time view as at 01/02/1998. This version of this Act contains provisions that are not valid for this point in time.

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“prescribe” means prescribe by regulations;

“ship, passenger and goods dues” has the same meaning—

- (a) in relation to Great Britain, as in the <sup>M25</sup>Harbours Act 1964; and
- (b) in relation to Northern Ireland, as in the <sup>M26</sup>Harbours Act (Northern Ireland) 1970;

“waste reception facilities” has the meaning given by section 130A(1).]

#### Textual Amendments

**F34** Pt. VI Ch. IA (ss. 130A-130E) inserted (19.3.1997) by 1997 c. 28, ss. 5, 31(4)

#### Marginal Citations

**M25** 1964 c. 40.

**M26** 1970 c. 1 (N.I.).

## CHAPTER II

### OIL POLLUTION

#### *General provisions for preventing pollution*

#### *Restrictions on transfer of oil at night.*

### **131 Discharge of oil from ships into certain United Kingdom waters.**

- (1) If any oil or mixture containing oil is discharged as mentioned in the following paragraphs into United Kingdom national waters which are navigable by sea-going ships, then, subject to the following provisions of this Chapter, the following shall be guilty of an offence, that is to say—
  - (a) if the discharge is from a ship, the owner or master of the ship, unless he proves that the discharge took place and was caused as mentioned in paragraph (b) below;
  - (b) if the discharge is from a ship but takes place in the course of a transfer of oil to or from another ship or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other ship or that place, the owner or master of that other ship or, as the case may be, the occupier of that place.
- (2) Subsection (1) above does not apply to any discharge which—
  - (a) is made into the sea; and
  - (b) is of a kind or is made in circumstances for the time being prescribed by regulations made by the Secretary of State.
- (3) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding [<sup>F35</sup>£250,000];
  - (b) on conviction on indictment, to a fine.
- (4) In this section “sea” includes any estuary or arm of the sea.



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- (5) In this section “place on land” includes anything resting on the bed or shore of the sea, or of any other waters included in United Kingdom national waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of the sea or any such waters.
- (6) In this section “occupier”, in relation to any such thing as is mentioned in subsection (5) above, if it has no occupier, means the owner thereof.

#### Textual Amendments

**F35** Sum in s. 131(3)(a) substituted (17.7.1997) by 1997 c. 28, s. 7(1)(2) (with s. 7(5)); S.I. 1997/1539, art. 2, Sch.

#### Modifications etc. (not altering text)

**C7** S. 131(3) applied (28.2.1996) by S.I. 1996/282, art. 3  
S. 131(3) applied (1.7.1998) by S.I. 1998/1377, reg. 14(2)

### 132 Defences of owner or master charged with offence under section 131.

- (1) Where a person is charged with an offence under section 131 as the owner or master of a ship, it shall be a defence to prove that the oil or mixture was discharged for the purpose of—
- (a) securing the safety of any ship;
  - (b) preventing damage to any ship or cargo, or
  - (c) saving life,
- unless the court is satisfied that the discharge of the oil or mixture was not necessary for that purpose or was not a reasonable step to take in the circumstances.
- (2) Where a person is charged with an offence under section 131 as the owner or master of a ship, it shall also be a defence to prove—
- (a) that the oil or mixture escaped in consequence of damage to the ship, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture; or
  - (b) that the oil or mixture escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

### 133 Defences of occupier charged with offence under section 131

Where a person is charged, in respect of the escape of any oil or mixture containing oil, with an offence under section 131 as the occupier of a place on land, it shall be a defence to prove that neither the escape nor any delay in discovering it was due to any want of reasonable care and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it.

### 134 Protection for acts done in exercise of certain powers of harbour authorities, etc.

- (1) Where any oil, or mixture containing oil, is discharged in consequence of—

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- (a) the exercise of any power conferred by section 252 or 253; or
- (b) the exercise, for the purpose of preventing obstruction or danger to navigation, of any power to dispose of sunk, stranded or abandoned ships which is exercisable by a harbour authority under any local enactment;

and apart from this subsection the authority exercising the power, or a person employed by or acting on behalf of the authority, would be guilty of an offence under section 131 in respect of that discharge, the authority or person shall not be convicted unless it is shown that they or he failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping or reducing the discharge.

- (2) Subsection (1) above shall apply to the exercise of any power conferred by section 13 of the <sup>M27</sup>Dockyard Ports Regulation Act 1865 (removal of obstructions to dockyard ports) as it applies to the exercise of the powers under sections 252 and 253, and shall, as so applying, have effect as if references to the authority exercising the power were references to the Queen's harbour master for the port in question.

#### Marginal Citations

M27 1865 c. 125.

- 135** (1) No oil shall be transferred between sunset and sunrise to or from a ship in any harbour in the United Kingdom unless the requisite notice has been given in accordance with this section or the transfer is for the purposes of a fire brigade.
- (2) A general notice may be given to the harbour master of a harbour that transfers of oil between sunset and sunrise will be frequently carried out at a place in the harbour within such period, not ending later than twelve months after the date on which the notice is given, as is specified in the notice; and if such a notice is given it shall be the requisite notice for the purposes of this section as regards transfers of oil at that place within the period specified in the notice.
- (3) Subject to subsection (2) above, the requisite notice for the purposes of this section shall be a notice given to the harbour master not less than three hours nor more than 96 hours before the transfer of oil begins.
- (4) In the case of a harbour which has no harbour master, references in this section to the harbour master shall be construed as references to the harbour authority.
- (5) If any oil is transferred to or from a ship in contravention of this section, the master of the ship, and, if the oil is transferred from or to a place on land, the occupier of that place, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **136 Duty to report discharge of oil into waters of harbours.**

- (1) If any oil or mixture containing oil—
  - (a) is discharged from a ship into the waters of a harbour in the United Kingdom; or
  - (b) is found to be escaping or to have escaped from a ship into any such waters;
 the owner or master of the ship shall forthwith report the occurrence to the harbour master, or, if the harbour has no harbour master, to the harbour authority.

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- (2) A report made under subsection (1) above shall state whether the occurrence falls within subsection (1)(a) or (b) above.
- (3) If a person fails to make a report as required by this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

VALID FROM 21/03/2000

**[<sup>F36</sup>136A Discharges etc. authorised under other enactments.**

The provisions of sections 131(1) and 136(1) shall not apply to any discharge which is made under, and the provisions of section 136(1) shall not apply to any escape which is authorised by, an authorisation granted under Part I of the <sup>M28</sup>Environmental Protection Act 1990 or a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999.]

**Textual Amendments**

**F36** S. 136A inserted (21.3.2000) (E.W.) and otherwise *prosp.* by 1999 c. 24, ss. 6(1), 7(3), **Sch. 2 para. 13**; S.I. 2000/800, **art. 2**

**Marginal Citations**

**M28** 1990 c. 43.

*Shipping casualties*

**137 Shipping casualties.**

- (1) The powers conferred by this section shall be exercisable where—
  - (a) an accident has occurred to or in a ship; and
  - (b) in the opinion of the Secretary of State oil from the ship will or may [<sup>F37</sup>cause significant pollution in the United Kingdom, United Kingdom waters or a part of the sea specified by virtue of section 129(2)(b)]; and
  - (c) in the opinion of the Secretary of State the use of the powers conferred by this section is urgently needed;but those powers are subject to the limitations contained in subsections (6) and (7) below.
- (2) For the purpose of preventing or reducing oil pollution, or the risk of oil pollution, the Secretary of State may give directions as respects the ship or its cargo—
  - (a) to the owner of the ship, or to any person in possession of the ship; or
  - (b) to the master of the ship; or
  - [<sup>F38</sup>(bb) to any pilot of the ship, or]
  - (c) to any salvor in possession of the ship, or to any person who is the servant or agent of any salvor in possession of the ship, and who is in charge of the salvage operation [<sup>F39</sup>or
  - <sup>F39</sup>(d) where the ship is in waters which are regulated or managed by a harbour authority—

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- (i) to the harbour master, or
  - (ii) to the harbour authority.]
- (3) Directions under subsection (2) above may require the person to whom they are given to take, or refrain from taking, any action of any kind whatsoever, and without prejudice to the generality of the preceding provisions of this subsection the directions may require—
- (a) that the ship is to be, or is not to be, moved, or is to be moved to a specified place, or is to be removed from a specified area or locality; or
  - (b) that the ship is not to be moved to a specified place or area, or over a specified route; or
  - (c) that any oil or other cargo is to be, or is not to be, unloaded or discharged; or
  - (d) that specified salvage measures are to be, or are not to be, taken.
- (4) If in the opinion of the Secretary of State the powers conferred by subsection (2) above are, or have proved to be, inadequate for the purpose, the Secretary of State may, for the purpose of preventing or reducing oil pollution, or the risk of oil pollution, take, as respects the ship or its cargo, any action of any kind whatsoever, and without prejudice to the generality of the preceding provisions of this subsection the Secretary of State may—
- (a) take any such action as he has power to require to be taken by a direction under this section;
  - (b) undertake operations for the sinking or destruction of the ship, or any part of it, of a kind which is not within the means of any person to whom he can give directions;
  - (c) undertake operations which involve the taking over of control of the ship.
- (5) The powers of the Secretary of State under subsection (4) above shall also be exercisable by such persons as may be authorised for the purpose by the Secretary of State.
- (6) Every person concerned with compliance with directions given, or with action taken, under this section shall use his best endeavours to avoid any risk to human life.
- (7) The provisions of this section and of section 141 are without prejudice to any rights or powers of Her Majesty’s Government in the United Kingdom exercisable apart from those sections whether under international law or otherwise.
- (8) It is hereby declared that any action taken as respects a ship which is under arrest or as respects the cargo of such a ship, being action duly taken in pursuance of a direction given under this section, or being any action taken under subsection (4) or (5) above—
- (a) does not constitute contempt of court; and
  - (b) does not in any circumstances make the Admiralty Marshal liable in any civil proceedings.
- (9) In this section, unless the context otherwise requires—
- [<sup>F40</sup>“accident” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo;]
  - “owner”, in relation to the ship to or in which an accident has occurred, includes its owner at the time of the accident; and
  - [<sup>F41</sup>“pilot” means any person not belonging to a ship who has the conduct of the ship;]

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“specified” in relation to a direction under this section, means specified by the direction;

and the reference in subsection (8) above to the Admiralty Marshal includes a reference to the Admiralty Marshal of the Supreme Court of Northern Ireland.

#### Textual Amendments

- F37** Words in s. 137(1)(b) substituted (17.7.1997) by 1997 c. 28, s. 2(2) (with s. 2(6)); S.I. 1997/1539, art. 2, Sch.
- F38** S. 137(2)(bb) inserted (17.7.1997) by 1997 c. 28, s. 2(3)(a) (with s. 2(6)); S.I. 1997/1539, art. 2, Sch.
- F39** S. 137(2)(d) and the word “or” immediately preceding it inserted (17.7.1997) by 1997 c. 28, s. 2(3)(b) (with s. 2(6)); S.I. 1997/1539, art. 2, Sch.
- F40** Definition of “accident” in s. 137(9) substituted (17.7.1997) by 1997 c. 28, s. 2(4)(a) (with s. 2(6)); S.I. 1997/1539, art. 2, Sch.
- F41** Definition of “pilot” inserted (17.7.1997) by 1997 c. 28, s. 2(4)(b) (with s. 2(6)); S.I. 1997/1539, art. 2, Sch.

### 138 Right to recover in respect of unreasonable loss or damage.

- (1) If any action duly taken by a person in pursuance of a direction given to him under section 137, or any action taken under section 137(4) or (5)—
- (a) was not reasonably necessary to prevent or reduce oil pollution, or risk of oil pollution; or
  - (b) was such that the good it did or was likely to do was disproportionately less than the expense incurred, or damage suffered, as a result of the action,
- a person incurring expense or suffering damage as a result of, or by himself taking, the action shall be entitled to recover compensation from the Secretary of State.
- (2) In considering whether subsection (1) above applies, account shall be taken of—
- (a) the extent and risk of oil pollution if the action had not been taken;
  - (b) the likelihood of the action being effective; and
  - (c) the extent of the damage which has been caused by the action.
- (3) Any reference in this section to the taking of any action includes a reference to a compliance with a direction not to take some specified action.
- (4) The Admiralty jurisdiction of the High Court and of the Court of Session shall include jurisdiction to hear and determine any claim arising under this section.

### [138A <sup>F42</sup>Application of sections 137 and 138 to pollution by substances other than oil.

- (1) In sections 137 and 138, any reference to oil pollution includes a reference to pollution by any other substance which—
- (a) is prescribed by the Secretary of State by order for the purposes of this section, or
  - (b) although not so prescribed, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.
- (2) Accordingly, any reference in those sections to oil includes a reference to any substance falling within subsection (1)(a) or (b) above.]

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### Textual Amendments

**F42** S. 138A inserted (17.7.1997) by 1997 c. 28, s. 3(1) (with s. 3(2)); S.I. 1997/1539, art. 2, Sch.

### 139 Offences in relation to section 137.

- (1) If the person to whom a direction is duly given under section 137 contravenes, or fails to comply with, any requirement of the direction, he shall be guilty of an offence.
- (2) If a person intentionally obstructs any person who is—
  - (a) acting on behalf of the Secretary of State in connection with the giving or service of a direction under section 137;
  - (b) acting in compliance with a direction under that section; or
  - (c) acting under section 137(4) or (5);
 he shall be guilty of an offence.
- (3) In proceedings for an offence under subsection (1) above, it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the direction, or that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.
- (4) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to a fine.

### 140 Service of directions under section 137.

- (1) If the Secretary of State is satisfied that a company or other body is not one to whom section 695 or section 725 of the <sup>M29</sup>Companies Act 1985 (service of notices) applies so as to authorise the service of a direction on that body under either of those sections, he may give a direction under section 137 of this Act—
  - (a) to that body, as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship; or
  - (b) to that body, as a salvor, by serving the direction on the person in charge of the salvage operations.
- (2) For the purpose of giving or serving a direction under section 137 to or on any person on a ship, a person acting on behalf of the Secretary of State shall have the right to go on board the ship.
- (3) In the application of subsection (1) above to Northern Ireland, for references to sections 695 and 725 of the <sup>M30</sup>Companies Act 1985 there shall be substituted references to Articles 645 and 673 of the Companies (Northern Ireland) Order 1986.

### Marginal Citations

**M29** 1985 c. 6.

**M30** S.I. 1986/1032 (NI 6).

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## 141 Application of sections 137 to 140 to certain foreign and other ships.

- (1) Her Majesty may by Order in Council provide that sections 137 to 140, together with any other provisions of this Chapter, shall apply to a ship—
  - (a) which is not a United Kingdom ship; and
  - (b) which is for the time being <sup>F43</sup>neither within United Kingdom waters nor within a part of the sea specified by virtue of section 129(2)(b)];in such cases and circumstances as may be specified in the Order, and subject to such exceptions, adaptations and modifications, if any, as may be so specified.
- (2) An Order in Council under subsection (1) above may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient.
- (3) Except as provided by an Order in Council under subsection (1) above, no direction under section 137 shall apply to a ship which is not a United Kingdom ship and which is for the time being <sup>F43</sup>neither within United Kingdom waters nor within a part of the sea specified by virtue of section 129(2)(b)], and no action shall be taken under section 137(4) or (5) as respects any such ship.
- (4) No direction under section 137 shall apply to any ship of Her Majesty's navy or to any Government ship and no action shall be taken under section 137(4) or (5) as respects any such ship.

### Textual Amendments

**F43** Words in s. 141(1)(b)(3) substituted (17.7.1997) by 1997 c. 28, s. 2(5) (with s. 2(6)); S.I. 1997/1539, art. 2, Sch.

## Enforcement

## 142 Oil records.

- (1) The Secretary of State may make regulations requiring oil record books to be carried in United Kingdom ships and requiring the master of any such ship to record in the oil record book carried by it—
  - (a) the carrying out, on board or in connection with the ship, of such of the following operations as may be prescribed relating to—
    - (i) the loading of oil cargo,
    - (ii) the transfer of oil cargo during a voyage,
    - (iii) the discharge of oil cargo,
    - (iv) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks,
    - (v) the separation of oil from water, or from other substances, in any mixture containing oil,
    - (vi) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in (i) to (v) above, or
    - (vii) the disposal of any other oil residues;
  - (b) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the safety of any ship, or of preventing damage to any ship or cargo, or of saving life;

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- (c) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from the ship in consequence of damage to the ship, or by reason of leakage.
- (2) The Secretary of State may make regulations requiring the keeping of records relating to the transfer of oil to and from ships while they are within United Kingdom waters; and the requirements of any regulations made under this subsection shall be in addition to the requirements of any regulations made under subsection (1) above.
- (3) Any records required to be kept by regulations made under subsection (2) above shall, unless the ship is a barge, be kept by the master of the ship, and shall, if the ship is a barge, be kept, in so far as they relate to the transfer of oil to the barge, by the person supplying the oil and, in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.
- (4) Regulations under this section requiring the carrying of oil record books or the keeping of records may—
  - (a) prescribe the form of the oil record books or records and the nature of the entries to be made in them;
  - (b) require the person providing or keeping the books or records to retain them for a prescribed period;
  - (c) require that person, at the end of the prescribed period, to transmit the books or records to a place or person determined by or under the regulations;
  - (d) provide for the custody or disposal of the books or records after their transmission to such a place or person.
- (5) Regulations under this section may—
  - (a) be made with respect to all or with respect to any one or more of the classes of ship or other matters to which this section relates;
  - (b) make different provision for different classes of ship or otherwise for different classes of case or different circumstances.
- (6) If any ship fails to carry such an oil record book as it is required to carry under this section the owner or master shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) If any person fails to comply with any requirements imposed on him by or under this section, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) If any person makes an entry in any oil record book carried or record kept under this section which is to his knowledge false or misleading in any material particular, he shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum, or imprisonment for a term not exceeding six months, or both;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.
- (9) In any proceedings under this Chapter—
  - (a) any oil record book carried or record kept in pursuance of regulations made under this section shall be admissible as evidence, and in Scotland shall be sufficient evidence, of the facts stated in it;
  - (b) any copy of an entry in such an oil record book or record which is certified by the master of the ship in which the book is carried or by the person by



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whom the record is required to be kept to be a true copy of the entry shall be admissible as evidence, and in Scotland shall be sufficient evidence, of the facts stated in the entry;

- (c) any document purporting to be an oil record book carried or record kept in pursuance of regulations made under this section, or purporting to be such a certified copy as is mentioned in paragraph (b) above, shall, unless the contrary is proved, be presumed to be such a book, record or copy, as the case may be.

(10) In this section “barge” includes a lighter and any similar vessel.

### **143 Prosecutions and enforcement of fines.**

- (1) Proceedings for an offence under this Chapter may, in England and Wales be brought only—
  - (a) by or with the consent of the Attorney General, or
  - (b) if the offence is one to which subsection (4) below applies, by the harbour authority, or
  - (c) unless the offence is one mentioned in subsection (4)(b) or (c) below, by the Secretary of State or a person authorised by any general or special direction of the Secretary of State.
- (2) Subject to subsection (3) below, proceedings for an offence under this Chapter may, in Northern Ireland, be brought only—
  - (a) by or with the consent of the Attorney General for Northern Ireland,
  - (b) if the offence is one to which subsection (4) below applies, by a harbour authority, or
  - (c) unless the offence is one mentioned in subsection (4)(b) or (c) below, by the Secretary of State or a person authorised by any general or special direction of the Secretary of State.
- (3) Subsection (2) above shall have effect in relation to proceedings for an offence under section 131 relating to the discharge of oil or a mixture containing oil from a ship in a harbour in Northern Ireland as if the references in paragraph (c) to the Secretary of State were references to the Secretary of State or the Department of the Environment for Northern Ireland.
- (4) This subsection applies to the following offences—
  - (a) any offence under section 131 which is alleged to have been committed by the discharge of oil, or a mixture containing oil, into the waters of a harbour in the United Kingdom;
  - (b) any offence in relation to a harbour in the United Kingdom under section 135 or 136; and
  - (c) any offence under section 142 relating to the keeping of records of the transfer of oil within such a harbour.
- (5) The preceding provisions of this section shall apply in relation to any part of a dockyard port within the meaning of the <sup>M31</sup>Dockyard Ports Regulation Act 1865 as follows—
  - (a) if that part is comprised in a harbour in the United Kingdom, the reference to the harbour authority shall be construed as including a reference to the Queen’s harbour master for the port;

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- (b) if that part is not comprised in a harbour in the United Kingdom, the references to such a harbour shall be construed as references to such a dockyard port and the reference to the harbour authority as a reference to the Queen’s harbour master for the port.
- (6) Any document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under section 131 alleged to have been committed by the company as the owner of the ship shall be treated as duly served on that company if the document is served on the master of the ship.

In this subsection “foreign company” means a company or body which is not one to which any of sections 695 and 725 of the <sup>M32</sup>Companies Act 1985 and Articles 645 and 673 of the <sup>M33</sup>Companies (Northern Ireland) Order 1986 applies so as to authorise the service of the document in question under any of those provisions.

- (7) Any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Chapter shall, for that purpose, have the right to go on board the ship in question.

**Modifications etc. (not altering text)**

**C8** S. 143(6) applied (with modifications) (1.7.1998) by S.I. 1998/1377, reg. 15(1)

**Marginal Citations**

**M31** 1865 c. 125.

**M32** 1985 c. 6.

**M33** S.I. 1986/1032 (NI 6).

**144 Power to detain ships for section 131 offences.**

- (1) Where a harbour master has reason to believe that the master or owner of a ship has committed an offence under section 131 by the discharge from the ship of oil, or a mixture containing oil, into the waters of the harbour, the harbour master may detain the ship.
- (2) Section 284, in its application to the detention of a ship under this section, shall have effect with the omission of subsections (1), (6) and (7) and as if—
- (a) in subsection (2), the reference to competent authority were a reference to the harbour authority; and
- (b) in subsection (4), the persons in relation to whom that subsection applies were the harbour master or any person acting on his behalf.
- (3) Where a harbour master detains a ship other than a United Kingdom ship under this section he shall immediately notify the Secretary of State, who shall then inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.

In this subsection “United Kingdom ship” has the same meaning as in section 85.

- (4) A harbour master who detains a ship under this section shall immediately release the ship—

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- (a) if no proceedings for the offence are instituted within the period of seven days beginning with the day on which the ship is detained;
  - (b) if proceedings for the offence, having been instituted within that period, are concluded without the master or owner being convicted;
  - (c) if either—
    - (i) the sum of [F44£255,000] is paid to the harbour authority by way of security, or
    - (ii) security which, in the opinion of the harbour authority, is satisfactory and is for an amount not less than [F44£255,000] is given to the harbour authority,  
by or on behalf of the master or owner; or
  - (d) where the master or owner is convicted of the offence, if any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid.
- (5) The harbour authority shall repay any sum paid in pursuance of subsection (4)(c) above or release any security so given—
- (a) if no proceedings for the offence are instituted within the period of seven days beginning with the day on which the sum is paid; or
  - (b) if proceedings for the offence, having been instituted within that period, are concluded without the master or owner being convicted.
- (6) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (4)(c) above and the master or owner is convicted of the offence, the sum so paid or the amount made available under the security shall be applied as follows—
- (a) first in payment of any costs or expenses ordered by the court to be paid by the master or owner; and
  - (b) next in payment of any fine imposed by the court;
- and any balance shall be repaid to the first-mentioned person.
- (7) Any reference in this section to a harbour master or a harbour authority shall, where the harbour in question consists of or includes the whole or any part of a dockyard port within the meaning of the <sup>M34</sup>Dockyard Ports Regulation Act 1865, be construed as including a reference to the Queen’s harbour master for the port.
- (8) This section does not apply in relation to a ship of Her Majesty’s navy or any Government ship.

#### Textual Amendments

**F44** Sums in s. 144(4)(c)(i)(ii) substituted (17.7.1997) by 1997 c. 28, s. 7(3)(4) (with s. 7(5)); S.I. 1997/1539, art. 2, Sch.

#### Marginal Citations

**M34** 1865 c. 125.

## 145 Interpretation of section 144

- (1) This section has effect for the interpretation of the references in section 144 to the institution of proceedings or their conclusion without the master or owner of a ship being convicted of an offence under section 131.

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- (2) For the purposes of section 144 in its application to England and Wales—
- (a) proceedings for an offence under section 131 are instituted—
    - (i) when a justice of the peace issues a summons or warrant under section 1 of the <sup>M35</sup>Magistrates' Courts Act 1980 in respect of the offence;
    - (ii) when a person is charged with the offence after being taken into custody without a warrant;
    - (iii) when a bill of indictment is preferred under section 2(2)(b) of the <sup>M36</sup>Administration of Justice (Miscellaneous Provisions) Act 1933; and
  - (b) proceedings for the offence are concluded without the master or owner being convicted on the occurrence of one of the following events—
    - (i) the discontinuance of the proceedings;
    - (ii) the acquittal of the master or owner;
    - (iii) the quashing of the master's or owner's conviction of the offence;
    - (iv) the grant of Her Majesty's pardon in respect of the master's or owner's conviction of the offence.
- (3) For the purposes of section 144 in its application to Northern Ireland—
- (a) proceedings for an offence under section 131 are instituted—
    - (i) when a justice of the peace issues a summons or warrant under Article 20 of the <sup>M37</sup>Magistrates' Courts (Northern Ireland) Order 1981;
    - (ii) when a person is charged with the offence after being taken into custody without a warrant;
    - (iii) when an indictment is presented under section 2(2)(c), (e) or (f) of the <sup>M38</sup>Grand Jury (Abolition) Act (Northern Ireland) 1969; and
  - (b) proceedings for an offence under section 131 are concluded without the master or owner being convicted on the occurrence of one of the following events—
    - (i) the discontinuance of the proceedings;
    - (ii) the acquittal of the master or owner;
    - (iii) the quashing of the master's or owner's conviction of the offence;
    - (iv) the grant of Her Majesty's pardon in respect of the master's or owner's conviction of the offence.
- (4) Where the application of subsection (2)(a) or (3)(a) above would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.
- (5) For the purposes of section 144 in its application to Scotland—
- (a) proceedings for an offence under section 131 are instituted—
    - (i) on the granting by the sheriff of a warrant in respect of the offence on presentation of a petition under section 12 of the <sup>M39</sup>Criminal Procedure (Scotland) Act 1975;
    - (ii) when, in the absence of a warrant or citation, the master or owner is first brought before a court competent to deal with the case;
    - (iii) when, in a case where he is liberated upon a written undertaking in terms of section 18(2)(a), 294(2)(a) or 295(1)(a) of the Criminal Procedure (Scotland) Act 1975, the master or owner appears at the specified time;

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- (iv) when, in a case mentioned in (iii) above where the master or owner fails to appear at the specified court at the specified time, the court grants warrant for his apprehension;
- (v) when summary proceedings are commenced in terms of section 331(3) of the Criminal Procedure (Scotland) Act 1975;
- (b) proceedings for an offence under section 131 are concluded without the master or owner being convicted on the occurrence of one of the following events—
  - (i) the court makes a finding of not guilty or not proven against the master or owner in respect of the offence;
  - (ii) the proceedings are expressly abandoned (other than *pro loco et tempore*) by the prosecutor or are deserted simpliciter;
  - (iii) the conviction is quashed;
  - (iv) the accused receives Her Majesty's pardon in respect of the conviction.

#### Marginal Citations

- M35 1980 c. 43.
- M36 1933 c. 36.
- M37 S.I. 1981/1675 (NI 26).
- M38 1969 c. 15 (N.I.).
- M39 1975 c. 21.

### 146 Enforcement and application of fines.

- (1) Where a fine imposed by a court in proceedings against the owner or master of a ship for an offence under this Chapter is not paid, or any costs or expenses ordered to be paid by him are not paid, at the time ordered by the court, the court shall, in addition to any other powers of enforcing payment, have power—
  - (a) except in Scotland, to direct the amount remaining unpaid to be levied by distress,
  - (b) in Scotland, to grant warrant authorising the arrestment and sale, of the ship and its equipment.
- (2) Where a person is convicted of an offence under section 131, and the court imposes a fine in respect of the offence, then, if it appears to the court that any person has incurred, or will incur, expenses in removing any pollution, or making good any damage, which is attributable to the offence, the court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

#### Modifications etc. (not altering text)

- C9 S. 146 applied (with modifications) (1.7.1998) by S.I. 1998/1377, reg. 15(2)

### 147 Enforcement of Conventions relating to oil pollution.

- (1) Her Majesty may by Order in Council empower such persons as may be designated by or under the Order to go on board any Convention ship while the ship is within

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a harbour in the United Kingdom, and to require production of any oil record book required to be carried in accordance with the Convention.

- (2) An Order in Council under this section may, for the purposes of the Order, and with any necessary modifications, apply any of the provisions of this Chapter relating to the production and inspection of oil record books and the taking of copies of entries therein, and to the admissibility in evidence of such oil record books and copies, including any penal provisions of this Chapter in so far as they relate to those matters, and may also apply section 259.
- (3) Her Majesty, if satisfied that the government of any country has accepted, or denounced, the Convention, or that the Convention extends, or has ceased to extend, to any territory, may by Order in Council make a declaration to that effect.
- (4) In this section—
  - “the Convention” means any Convention accepted by Her Majesty’s Government in the United Kingdom in so far as it relates to the prevention of pollution of the sea by oil; and
  - “Convention ship” means a ship registered in—
    - (a) a country the government of which has been declared by an Order in Council under subsection (3) above to have accepted the Convention, and has not been so declared to have denounced it; or
    - (b) a territory to which it has been so declared that the Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend.

#### *Miscellaneous and supplementary*

### **148 Power of Secretary of State to grant exemptions.**

The Secretary of State may exempt from any of the provisions of this Chapter or of any regulations made thereunder, either absolutely or subject to such conditions as he thinks fit—

- (a) any ship or classes of ships;
- (b) any discharge of, or of a mixture containing, oil.

### **149 Application to Government ships.**

- (1) This Chapter does not apply to ships of Her Majesty’s navy, nor to Government ships in the service of the Secretary of State while employed for the purposes of Her Majesty’s navy.
- (2) Subject to subsection (1) above and to section 141(4) and section 144(8)—
  - (a) provisions of this Chapter which are expressed to apply only to United Kingdom ships apply to Government ships registered in the United Kingdom and also to Government ships not so registered but held for the purposes of Her Majesty’s Government in the United Kingdom;
  - (b) provisions of this Chapter which are expressed to apply to ships generally apply to Government ships.

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## 150 Annual Report.

- (1) The Secretary of State shall, as soon as possible after the end of each calendar year, make a report on the exercise and performance of his functions under this Chapter during that year.
- (2) Every such report shall include such observations as he may think fit to make on the operation during that year of this Chapter and of any Convention accepted by Her Majesty's Government in the United Kingdom in so far as it relates to the prevention of pollution of the sea by oil.
- (3) The Secretary of State shall lay a copy of every such report before each House of Parliament.

## 151 Interpretation.

- (1) In this Chapter—
  - “harbour authority” means a person or body of persons empowered by an enactment to make charges in respect of ships entering a harbour in the United Kingdom or using facilities therein;
  - “harbour in the United Kingdom” means a port, estuary, haven, dock or other place the waters of which are within United Kingdom national waters and in respect of entry into or the use of which by ships a person or body of persons is empowered by an enactment (including a local enactment) to make any charges other than charges in respect of navigational aids or pilotage;
  - “harbour master” includes a dock master or pier master, and any person specially appointed by a harbour authority for the purpose of enforcing the provisions of this Chapter in relation to the harbour;
  - “local enactment” means a local or private Act, or an order confirmed by Parliament or brought into operation in accordance with special Parliamentary procedure;
  - “oil” means oil of any description and includes spirit produced from oil of any description, and also includes coal tar;
  - “oil residues” means any waste consisting of, or arising from, oil or a mixture containing oil;
  - “place on land” has the meaning given in section 131;
  - “transfer”, in relation to oil, means transfer in bulk.
- (2) For the purposes of the definition of “harbour in the United Kingdom” “charges in respect of navigational aids” means general light dues, local light dues and any other charges payable in respect of lighthouses, buoys or beacons.
- (3) Any reference in any provision of this Chapter to a mixture containing oil shall be construed as a reference to any mixture of oil (or, as the case may be, of oil of a description referred to in that provision) with water or with any other substance.
- (4) Any reference in this Chapter, other than in section 136, to the discharge of oil or a mixture containing oil, or to its being discharged, from a ship, place or thing, except where the reference is to its being discharged for a specific purpose, includes a reference to the escape of oil or mixture, or (as the case may be) to its escaping, from that ship, place or thing.

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- (5) For the purposes of any provision of this Chapter relating to the discharge of oil or a mixture containing oil from a ship, any floating craft (other than a ship) which is attached to a ship shall be treated as part of the ship.
- (6) Any power conferred by section 259 in its application to this Chapter to test any equipment on board a ship shall be construed as including a power to require persons on board the ship to carry out such work as may be requisite for the purpose of testing the equipment; and any provision of that section as to submitting equipment for testing shall be construed accordingly.
- (7) Subject to section 18 of the <sup>M40</sup> Interpretation Act 1978 (offence under two or more laws) nothing in this Chapter shall—
- (a) affect any restriction imposed by or under any other enactment, whether contained in a public general Act or a local or private Act; or
  - (b) derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Chapter.

#### Marginal Citations

**M40** 1978 c. 30.

## CHAPTER III

### LIABILITY FOR OIL POLLUTION

#### *Preliminary*

#### **152 Meaning of “the Liability Convention” and related expressions.**

- (1) In this Chapter—
- “the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1992;
- “Liability Convention country” means a country in respect of which the Liability Convention is in force; and
- “Liability Convention State” means a State which is a party to the Convention.
- (2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Liability Convention in respect of any country so specified the Order shall, while in force, be conclusive evidence that that State is a party to the Liability Convention in respect of that country.

#### Modifications etc. (not altering text)

- C10** S. 152 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)
- S. 152 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)
- S. 152 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)
- S. 152 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)



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- S. 152 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- S. 152 extended (with modifications) to the Pitcairn, Henderson, Ducies and Oeno Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- S. 152 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- S. 152 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- S. 152 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- S. 152 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 152 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 152 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 152 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 152 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 152 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

### *Liability*

#### **153 Liability for oil pollution in case of tankers.**

- (1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
  - (a) for any damage caused outside the ship in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (c) for any damage caused in the territory of the United Kingdom by any measures so taken.
- (2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
  - (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the United Kingdom; and
  - (b) for any damage caused outside the ship in the territory of the United Kingdom by any measures so taken;and in this Chapter any such threat is referred to as a relevant threat of contamination.
- (3) Subject to subsection (4) below, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.
- (4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—
  - (a) while it is carrying oil in bulk as cargo; and
  - (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

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but not otherwise.

- (5) Where a person incurs a liability under subsection (1) or (2) above he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the territory of the United Kingdom included the territory of any other Liability Convention country.
- (6) Where—
- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
  - (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,
- each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.
- (7) For the purposes of this Chapter—
- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
  - (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
  - (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.
- (8) The <sup>M41</sup>Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the <sup>M42</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

**Modifications etc. (not altering text)**

- C11** S. 153 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
 S. 153 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
 S. 153 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
 S. 153 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
 S. 153 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**  
 S. 153 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oeno Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**  
 S. 153 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**  
 S. 153 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
 S. 153 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
 S. 153 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**  
 S. 153 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
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S. 153 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
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S. 153 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

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**Marginal Citations**

**M41** 1945 c.8

**M42** 1948 c. 23 (N.I.).

**154 Liability for oil pollution in case of other ships.**

- (1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship other than a ship to which section 153 applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
  - (a) for any damage caused outside the ship in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - (c) for any damage so caused in the territory of the United Kingdom by any measures so taken.
- (2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 153 applies by the contamination which might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
  - (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the United Kingdom; and
  - (b) for any damage caused outside the ship in the territory of the United Kingdom by any measures so taken;and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.
- (3) Where—
  - (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
  - (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.
- (4) The <sup>M43</sup>Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the <sup>M44</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.
- (5) In this section “ship” includes a vessel which is not seagoing.

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#### **Modifications etc. (not altering text)**

- C12** S. 154 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
 S. 154 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
 S. 154 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
 S. 154 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
 S. 154 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**  
 S. 154 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oeno Islands (30.11.1997) by S.I. 1997/2585, art. 2, **Sch.**  
 S. 154 extended (with modifications) to the Sovereign Base Islands of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**  
 S. 154 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
 S. 154 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
 S. 154 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**  
 S. 154 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch.**  
 S. 154 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
 S. 154 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
 S. 154 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
 S. 154 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

#### **Marginal Citations**

- M43** 1945 c. 28.  
**M44** 1948 c. 23 (N.I.).

### **155 Exceptions from liability under sections 153 and 154.**

No liability shall be incurred by the owner of a ship under section 153 or 154 by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

#### **Modifications etc. (not altering text)**

- C13** S. 155 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
 S. 155 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581 art. 2, **Sch.**  
 S. 155 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
 S. 155 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**

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- S. 155 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- S. 155 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by S.I. 1997/2585, art. 2, **Sch.**
- S. 155 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- S. 155 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- S. 155 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- S. 155 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 155 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch.**
- S. 155 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 155 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 155 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 155 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## 156 Restriction of liability for oil pollution.

- (1) Where, as a result of any occurrence—
  - (a) any oil is discharged or escapes from a ship (whether one to which section 153 or one to which section 154 applies), or
  - (b) there arises a relevant threat of contamination,then, whether or not the owner of the ship in question incurs a liability under section 153 or 154—
  - (i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and
  - (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.
- (2) Subsection (1)(ii) above applies to—
  - (a) any servant or agent of the owner of the ship;
  - (b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;
  - (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
  - (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
  - (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 153 or 154;
  - (f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.
- (3) The liability of the owner of a ship under section 153 or 154 for any impairment of the environment shall be taken to be a liability only in respect of—
  - (a) any resulting loss of profits, and
  - (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

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**Modifications etc. (not altering text)**

- C14** S. 156 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580 art. 2, Sch.  
 S. 156 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, Sch.  
 S. 156 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, Sch.  
 S. 156 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, Sch.  
 S. 156 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, Sch.  
 S. 156 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, art. 2, Sch.  
 S. 156 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, Sch.  
 S. 156 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, Sch.  
 S. 156 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, Sch.  
 S. 156 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, Sch.  
 S. 156 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1  
 S. 156 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1  
 S. 156 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, Sch.  
 S. 156 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, Sch.  
 S. 156 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1262, art. 2, Sch.

*Limitation of liability*

**157 Limitation of liability under section 153.**

- (1) Where, as a result of any occurrence, the owner of a ship incurs liability under section 153 by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (3) below)—
- (a) he may limit that liability in accordance with the provisions of this Chapter, and
  - (b) if he does so, his liability (being the aggregate of his liabilities under section 153 resulting from the occurrence) shall not exceed the relevant amount.
- (2) In subsection (1) above, “the relevant amount” means—
- (a) in relation to a ship not exceeding 5,000 tons, three million special drawing rights;
  - (b) in relation to a ship exceeding 5,000 tons, three million special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 59.7 million special drawing rights;

but the Secretary of State may by order make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.

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- (3) Subsection (1) above shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 153 or recklessly and in the knowledge that any such damage or cost would probably result.
- (4) For the purposes of this section a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Secretary of State.
- (5) Any such order shall, so far as it appears to the Secretary of State to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969.

#### Modifications etc. (not altering text)

- C15** S. 157 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, Sch.  
S. 157 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, Sch.  
S. 157 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, Sch.  
S. 157 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, Sch.  
S. 157 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, Sch.  
s. 157 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, Sch.  
s. 157 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, Sch.  
s. 157 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, Sch.  
s. 157 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, Sch.  
s. 157 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, Sch.  
S. 157 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1  
S. 157 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1  
S. 157 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, Sch.  
S. 157 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, Sch.  
S. 157 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, Sch.

#### 158 Limitation actions.

- (1) Where the owner of a ship has or is alleged to have incurred a liability under section 153 he may apply to the court for the limitation of that liability to an amount determined in accordance with section 157.
- (2) If on such an application the court finds that the applicant has incurred such a liability [F45]but has not found that he is not entitled to limit it], the court shall, after determining [F46]the limit which would apply to the applicant's liability if he were entitled to limit it] and directing payment into court of the amount of that limit—
  - (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and

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- (b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

[<sup>F47</sup>(2A) Where—

- (a) a distribution is made under subsection (2)(b) above without the court having found that the applicant is entitled to limit his liability, and
- (b) the court subsequently finds that the applicant is not so entitled,

the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.]

- (3) A payment into court of the amount of a limit determined in pursuance of this section shall be made 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 day on which the determination is made; or
- (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

- (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 day on which the determination was made, or
- (ii) that no sum has been so fixed for that day 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 day on which the determination was made,

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

- (c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

- (4) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

- (5) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends—

- (a) by the owner or the persons referred to in section 165 as “the insurer”; or
- (b) by a person who has or is alleged to have incurred a liability, otherwise than under section 153, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of section 185 or 186;

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

- (6) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.



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- (7) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the United Kingdom.
- (8) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) above.

#### Textual Amendments

- F45** Words in s. 158(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 4(2)(a)**; S.I. 1997/1539, art. 2, **Sch.**
- F46** Words in s. 158(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 4(2)(b)**; S.I. 1997/1539, art. 2, **Sch.**
- F47** S. 158(2A) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 4(3)**; S.I. 1997/1539, art. 2, **Sch.**

#### Modifications etc. (not altering text)

- C16** s. 158 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**
- s. 158 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**
- s. 158 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**
- s. 158 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**
- s. 158 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- s. 158 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- s. 158 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- s. 158 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- s. 158 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- s. 158 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 158 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 158 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 158 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 158 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 158 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## 159 Restriction on enforcement after establishment of limitation fund.

- (1) Where the court has found that a person who has incurred a liability under section 153 is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount—
- (a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
- (b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs (or, in Scotland, expenses);

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if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 158 had been taken.

- (2) In the application of this section to Scotland, any reference (however expressed) to release from arrest shall be construed as a reference to the recall of an arrestment.

**Modifications etc. (not altering text)**

- C17** s. 159 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, [Sch.](#)  
s. 159 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, [Sch.](#)  
s. 159 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, [Sch.](#)  
s. 159 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, [Sch.](#)  
s. 159 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, [Sch.](#)  
s. 159 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, [Sch.](#)  
s. 159 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, [Sch.](#)  
s. 159 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), art. 2, [Sch.](#)  
s. 159 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), art. 2, [Sch.](#)  
s. 159 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), art. 2, [Sch.](#)  
S. 159 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, [Sch. 1](#)  
S. 159 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, [Sch. 1](#)  
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S. 159 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), art. 2, [Sch.](#)  
S. 159 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), art. 2, [Sch.](#)

**160 Concurrent liabilities of owners and others.**

Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 153 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section then, if—

- (a) the owner has been found, in proceedings under section 158 to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and
- (b) the other person is entitled to limit his liability in connection with the ship by virtue of section 185 or 186;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

**Modifications etc. (not altering text)**

- C18** s. 160 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, [Sch.](#)

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- s. 160 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**
- s. 160 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**
- s. 160 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**
- s. 160 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- s. 160 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- s. 160 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- s. 160 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- s. 160 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- s. 160 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 160 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 160 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 160 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 160 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 160 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## 161 Establishment of limitation fund outside United Kingdom.

Where the events resulting in the liability of any person under section 153 also resulted in a corresponding liability under the law of another Liability Convention country sections 159 and 160 shall apply as if the references to sections 153 and 158 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

### Modifications etc. (not altering text)

- C19**
- s. 161 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**
  - s. 161 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**
  - s. 161 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**
  - s. 161 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**
  - s. 161 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
  - s. 161 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
  - s. 161 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
  - s. 161 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
  - s. 161 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
  - s. 161 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
  - S. 161 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
  - S. 161 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**

**Status:** Point in time view as at 01/02/1998. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- S. 161 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 161 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 161 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## 162 Extinguishment of claims.

No action to enforce a claim in respect of a liability incurred under section 153 or 154 shall be entertained by any court in the United Kingdom unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

### Modifications etc. (not altering text)

- C20** s. 162 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**
- s. 162 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**
- s. 162 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**
- s. 162 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**
- s. 162 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**
- s. 162 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- s. 162 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- s. 162 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- s. 162 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- s. 162 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 162 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 162 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 162 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 162 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**
- S. 162 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

### *Compulsory insurance*

## 163 Compulsory insurance against liability for pollution.

- (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 Secretary of State.
- (2) The ship shall not enter or leave a port in the United Kingdom or arrive at or leave a terminal in the territorial sea of the United Kingdom nor, if the ship is a United Kingdom ship, 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

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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 a United Kingdom ship, a certificate issued by the Secretary of State;
  - (b) if the ship is registered in a Liability Convention country other than the United Kingdom, 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 Secretary of State or by or under the authority of the government of any Liability Convention country other than the United Kingdom.
- (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 and excise or of the Secretary of State and, if the ship is a United Kingdom ship, to any proper officer.
- (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 indictment to a fine, or on summary conviction to a fine not exceeding £50,000.
- (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 level 4 on the standard scale.
- (7) If a ship attempts to leave a port in the United Kingdom in contravention of this section the ship may be detained.

#### Modifications etc. (not altering text)

- C21** s. 163 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
s. 163 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)  
s. 163 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)  
s. 163 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)  
S. 163 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)  
S. 163 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)  
S. 163 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)  
S. 163 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)

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S. 163 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## 164 Issue of certificate by Secretary of State.

- (1) Subject to subsection (2) below, if the Secretary of State is satisfied, on the application for such a certificate as is mentioned in section 163 in respect of a United Kingdom ship or a ship registered 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 Secretary of State shall issue such a certificate to the owner.
- (2) If the Secretary of State 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 Secretary of State 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 level 4 on the standard scale.
- (5) The Secretary of State shall send a copy of any certificate issued by him under this section in respect of a United Kingdom ship to the Registrar General of Shipping and Seamen, and the Registrar shall make the copy available for public inspection.

### Modifications etc. (not altering text)

- C22** s. 164 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
 s. 164 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
 s. 164 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
 s. 164 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
 s. 164 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**  
 s. 164 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**  
 s. 164 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**  
 s. 164 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
 s. 164 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
 s. 164 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**  
 S. 164 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
 S. 164 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
 S. 164 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
 S. 164 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
 S. 164 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

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## 165 Rights of third parties against insurers.

- (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) The <sup>M45</sup>Third Parties (Rights against Insurers) Act 1930 and the <sup>M46</sup>Third Parties (Rights against Insurers) Act (Northern Ireland) 1930 shall not apply in relation to any contract of insurance to which such a certificate as is mentioned in section 163 relates.

### Modifications etc. (not altering text)

- C23** s. 165 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
s. 165 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
s. 165 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
s. 165 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
s. 165 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**  
s. 165 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**  
s. 165 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**  
s. 165 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
s. 165 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
s. 165 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**  
S. 165 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 165 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
S. 165 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
S. 165 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
S. 165 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

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### Marginal Citations

**M45** 1930 c. 25.

**M46** 1930 c. 9 (N.I.).

## *Supplementary*

### **166 Jurisdiction of United Kingdom courts and registration of foreign judgments.**

(1) Paragraph 1(1)(d) of Schedule 1 to the <sup>M47</sup>Administration of Justice Act 1956 (Admiralty jurisdiction in claims for damage done by ships) shall be construed as extending to any claim in respect of a liability incurred under this Chapter, and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim.

(2) Where—

- (a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the territory of the United Kingdom and no measures are reasonably taken to prevent or minimise such damage in that territory, or
- (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the United Kingdom,

no court in the United Kingdom shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—

- (i) against the owner of the ship, or
- (ii) against any person to whom section 156(1)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(3) In subsection (2) above, “relevant damage or cost” means—

- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country,
- (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country; or
- (c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 156(2)(e) shall have effect for the purposes of subsection (2)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.

(4) Part I of the <sup>M48</sup>Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this section, to any judgment given by a court in a Liability Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153; and in its application to such a judgment that Part shall have effect with the omission of sections 4(2) and (3) of that Act.



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#### Modifications etc. (not altering text)

- C24** s. 166 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
s. 166 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
s. 166 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
s. 166 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
s. 166 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**  
s. 166 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**  
s. 166 extended (with modifications) to the Sovereign Bases Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**  
s. 166 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
s. 166 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
s. 166 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**  
S. 166 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 166 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
S. 166 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
S. 166 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
S. 166 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

#### Marginal Citations

- M47** 1956 c. 46.  
**M48** 1933 c. 13.

### 167 Government ships.

- (1) Nothing in the preceding provisions of this Chapter applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.
- (2) In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with section 163(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Convention.
- (3) Every Liability Convention State shall, for the purposes of any proceedings brought in a court in the United Kingdom to enforce a claim in respect of a liability incurred under section 153, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, or in Scotland the execution of diligence, against the property of any State.

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#### **Modifications etc. (not altering text)**

- C25** s. 167 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
 s. 167 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
 s. 167 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
 s. 167 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
 s. 167 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
 s. 167 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)  
 s. 167 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)  
 s. 167 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)  
 s. 167 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)  
 s. 167 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)  
 S. 167 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)  
 S. 167 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)  
 S. 167 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)  
 S. 167 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)  
 S. 167 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)

#### **168 Limitation of liability under section 154.**

For the purposes of section 185 any liability incurred under section 154 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in paragraph 1(a) of Article 2 of the Convention in Part I of Schedule 7.

#### **Modifications etc. (not altering text)**

- C26** s. 168 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
 s. 168 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
 s. 168 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
 s. 168 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
 s. 168 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
 s. 168 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)  
 s. 168 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)  
 s. 168 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)  
 s. 168 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)  
 s. 168 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)  
 S. 168 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)

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S. 168 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
S. 168 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
S. 168 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
S. 168 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## 169 Saving for recourse actions.

Nothing in this Chapter shall prejudice any claim, or the enforcement of any claim, a person incurring any liability under this Chapter may have against another person in respect of that liability.

### Modifications etc. (not altering text)

- C27** s. 169 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
s. 169 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
s. 169 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
s. 169 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
s. 169 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**  
s. 169 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, art. 2, **Sch.**  
s. 169 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, arts. 2, 3, **Sch.**  
s. 169 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
s. 169 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
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S. 169 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
S. 169 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## 170 Interpretation.

(1) In this Chapter—

“the court” means the High Court or, in Scotland, the Court of Session;

“damage” includes loss;

“oil” means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“relevant threat of contamination” shall be construed in accordance with section 153(2) or 154(2); and

“ship” (subject to section 154(5)) means any sea-going vessel or sea-borne craft of any type whatsoever.

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- (2) In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.
- (3) References in this Chapter in its application to Scotland—
- (a) to payment into court, shall be construed as references to the payment to the Accountant of Court for Consignation (within the meaning of the Court of Session Consignations (Scotland) Act 1895; and
  - (b) to costs, shall be construed as references to expenses.
- (4) References in this Chapter to the territory of any country include the territorial sea of that country and—
- (a) in the case of the United Kingdom, any area [<sup>F48</sup>specified by virtue of section 129(2)(b)]and
  - (b) in the case of any other Liability Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by that State in question in accordance with international law.

#### Textual Amendments

**F48** Words in s. 170(4)(a) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 5**; S.I. 1997/1539, art. 2, **Sch.**

#### Modifications etc. (not altering text)

**C28** s. 170 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
s. 170 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
s. 170 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
s. 170 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
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s. 170 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
s. 170 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
s. 170 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**  
S. 170 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 170 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
S. 170 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
S. 170 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
S. 170 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

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## 171 Transitory text of this Chapter and power to make transitional provisions.

- (1) Until such day as the Secretary of State may by order appoint, the provisions set out in Schedule 4 as Chapter III shall have effect instead of the foregoing provisions of this Chapter; and references in that Schedule to a section whose number is included in that Schedule is a reference to the section so included.
- (2) Notwithstanding subsection (1) above, Her Majesty may by Order in Council make such provision as appears to Her Majesty to be appropriate in connection with the implementation of any transitional provisions contained in the 1992 Protocol or the Conventions which they amend; and any such Order may in particular provide, in relation to occurrences of any description specified in the Order—
  - (a) for specified provisions of this Chapter, whether as contained in this Chapter or in the Chapter III set out in Schedule 4, to have effect;
  - (b) for any such provisions to have effect subject to specified modifications.
- (3) In subsection (2) above—

“the 1992 Protocol” means the Protocol of 1992 to amend the International Convention for Oil Pollution Damage 1969 signed in London on 27th November 1992; and

“specified” means specified in the Order.

### Subordinate Legislation Made

**P1** [S. 171\(1\)](#) power exercised (30.5.1996) by [S.I. 1996/1210](#), [art. 2](#)

## CHAPTER IV

### INTERNATIONAL OIL POLLUTION

#### COMPENSATION FUND

#### *Preliminary*

## 172 Meaning of the “Liability Convention”, “the Fund Convention” and related expressions.

- (1) In this Chapter—
  - (a) “the Liability Convention” has the same meaning as in Chapter III of this Part;
  - (b) “the Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;
  - (c) “the Fund” means the International Fund established by the Fund Convention; and
  - (d) “Fund Convention country” means a country in respect of which the Fund Convention is in force.
- (2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Fund Convention in respect of any country so specified, the Order shall,

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while in force, be conclusive evidence that that State is a party to that Convention in respect of that country.

**Modifications etc. (not altering text)**

- C29** S. 172 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
 S. 172 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
 S. 172 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
 S. 172 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
 S. 172 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**  
 S. 172 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**  
 S. 172 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**  
 S. 172 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
 S. 172 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
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 S. 172 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
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 S. 172 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
 S. 172 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
 S. 172 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

*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 United Kingdom otherwise than on a voyage only within its national waters.
- (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 United Kingdom 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 United Kingdom, 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 the 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—

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- (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 Secretary of State may by regulations impose on persons who are or may be liable to pay contributions under this section obligations to give security for payment to the Secretary of State, or the Fund.
- (9) Regulations under subsection (8) above—
- (a) may contain such supplemental or incidental provisions as appear to the Secretary of State expedient, and
  - (b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding level 5 on the standard scale, 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 United Kingdom, or of any other country;
- “group” in relation to companies, means a holding company and its subsidiaries as defined by section 736 of the <sup>M49</sup>Companies Act 1985 (or for companies in Northern Ireland Article 4 of the <sup>M50</sup>Companies (Northern Ireland) Order 1986), subject, in the case of a company incorporated outside the United Kingdom, 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 oils from which distillate fractions have been removed, and
    - (ii) crude oils 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.

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#### **Modifications etc. (not altering text)**

- C30** S. 173 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
 S. 173 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
 S. 173 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
 S. 173 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
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 S. 173 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
 S. 173 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
 S. 173 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
 S. 173 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

#### **Marginal Citations**

- M49** 1985 c. 6.  
**M50** S.I. 1986/1032 (NI 6).

#### **174 Power to obtain information.**

- (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 Secretary of State 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 Secretary of State 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.



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- (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 level 5 on the standard scale.
- (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 level 4 on the standard scale in the case of an offence under paragraph (a) above and not exceeding the statutory maximum 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 to both.

**Modifications etc. (not altering text)**

- C31** S. 174 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
S. 174 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
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### *Compensation for persons suffering pollution damage*

#### **175 Liability of the Fund.**

- (1) The Fund shall be liable for pollution damage in the territory of the United Kingdom if the person suffering the damage has been unable to obtain full compensation under section 153—
  - (a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused—
    - (i) resulted from an exceptional, inevitable and irresistible phenomenon, or
    - (ii) was due wholly to anything done or omitted to be done by another person (not being a servant or agent of the owner) with intent to do damage, or
    - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible, (and because liability is accordingly wholly displaced by section 155), or
  - (b) because the owner or guarantor liable for the damage cannot meet his obligations in full, or
  - (c) because the damage exceeds the liability under section 153 as limited by section 157.
- (2) Subsection (1) above shall apply with the substitution for the words “United Kingdom” of the words “a Fund Convention country” where—
  - (a) the headquarters of the Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country, or
  - (b) the incident has caused pollution damage in the territory of the United Kingdom and of another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the United Kingdom.
- (3) Where the incident has caused pollution damage in the territory of the United Kingdom and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter III of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.
- (4) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country and the Fund is liable for that pollution damage by virtue of subsection (2)(a) above, references in this section to the provisions of Chapter III of this Part shall be treated as references to the corresponding provisions of the law of the country in which those proceedings were brought.
- (5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

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- (6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 153.
- (7) The Fund shall incur no obligation under this section if—
- (a) it proves that the pollution damage—
    - (i) resulted from an act of war, hostilities, civil war or insurrection, or
    - (ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service, or
  - (b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.
- (8) If the Fund proves that the pollution damage resulted wholly or partly—
- (a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage, or
  - (b) from the negligence of that person,
- the Fund may (subject to subsection (10) below) be exonerated wholly or partly from its obligations to pay compensation to that person.
- (9) Where the liability under section 153 in respect of the pollution damage is limited to any extent by subsection (8) of that section, the Fund shall (subject to subsection (10) below) be exonerated to the same extent.
- (10) Subsections (8) and (9) above shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

**Modifications etc. (not altering text)**

- C32** S. 175 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, Sch.  
S. 175 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, Sch.  
S. 175 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, Sch.  
S. 175 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, Sch.  
S. 175 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, Sch.  
S. 175 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, Sch.  
S. 175 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, Sch.  
S. 175 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, Sch.  
S. 175 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, Sch.  
S. 175 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1  
S. 175 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1  
S. 175 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, Sch.  
S. 175 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, Sch.

**Status:** Point in time view as at 01/02/1998. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

S. 175 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, Sch.

## 176 Limitation of Fund's liability under section 175.

- (1) The Fund's liability under section 175 shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund and the text of which is set out in Part I of Schedule 5), and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Chapter.
- (2) A certificate given by the Director of the Fund stating that sub-paragraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 175 shall be conclusive evidence for the purposes of this Chapter that it is so applicable.
- (3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention a court giving judgment against the Fund in proceedings under section 175 shall notify the 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 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.
- (4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) above 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 day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident, or
    - (ii) if no sum has been so fixed for the relevant day, the last day before that day 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 day, or
    - (ii) that no sum has been so fixed for the relevant day 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 day,
 shall be conclusive evidence of those matters for the purposes of this Chapter.
- (5) The Secretary of State may by order make such amendments of this section and Part I of Schedule 5 as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the provisions set out in that Schedule.

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- (6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) above shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

**Modifications etc. (not altering text)**

- C33** S. 176 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, **Sch.**  
S. 176 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, **Sch.**  
S. 176 extended (with modifications) to British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, **Sch.**  
S. 176 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, **Sch.**  
S. 176 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, **Sch.**  
S. 176 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oeno Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**  
S. 176 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**  
S. 176 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
S. 176 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
S. 176 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**  
S. 176 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 176 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
S. 176 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
S. 176 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
S. 176 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

*Supplemental*

*Jurisdiction and effect of judgments.*

*Extinguishment of claims.*

*Interpretation.*

- 177** (1) Paragraph 1(1)(d) of Schedule 1 to the <sup>MS1</sup>Administration of Justice Act 1956 (Admiralty jurisdiction in claims for damage done by ships) shall be construed as extending to any claim in respect of a liability falling on the Fund under this Chapter; and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim.
- (2) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 153, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

**Status:** Point in time view as at 01/02/1998. This version of this Act contains provisions that are not valid for this point in time.

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- (3) Where a person incurs a liability under the law of a Fund Convention country corresponding to Chapter III of this Part for damage which is partly in the territory of the United Kingdom, subsection (2) above shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.
- (4) Subject to subsection (5) below, Part I of the <sup>M52</sup>Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this subsection, to any judgment given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 175; and in its application to such a judgment the said Part I shall have effect with the omission of sections 4(2) and (3).
- (5) No steps shall be taken to enforce such a judgment unless and until the court in which it is registered under Part I of the Act of 1933 gives leave to enforce it; and—
- (a) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the Fund Convention (as set out in Part I of Schedule 5 to this Act) or that it is to be reduced to a specified amount; and
  - (b) in the latter case, the judgment shall be enforceable only for the reduced amount.

#### **Modifications etc. (not altering text)**

- C34** S. 177 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, [Sch.](#)  
 S. 177 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), art. 2, [Sch.](#)  
 S.177 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, [Sch. 1](#)  
 S. 177 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, [Sch. 1](#)  
 S. 177 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), art. 2, [Sch.](#)  
 S. 177 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), art. 2, [Sch.](#)

#### **Marginal Citations**

- M51** 1956 c. 46.  
**M52** 1933 c. 13.

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- 178** (1) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the United Kingdom unless—
- (a) the action is commenced, or
  - (b) a third party notice of an action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund,
- not later than three years after the claim against the Fund arose.

In this subsection “third party notice” means a notice of the kind described in section 177(2) and (3).

- (2) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the United Kingdom unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the claim against the Fund arose.

**Modifications etc. (not altering text)**

- C35** S. 178 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, Sch.  
S. 178 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, Sch.  
S. 178 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, Sch.  
S. 178 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, Sch.  
S. 178 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, Sch.  
S. 178 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, Sch.  
S. 178 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, Sch.  
S. 178 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, Sch.  
S. 178 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, Sch.  
S. 178 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, Sch.  
S. 178 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, Sch. 1  
S. 178 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1  
S. 178 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, Sch.  
S. 178 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, Sch.  
S. 178 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, Sch.

**179 Subrogation.**

- (1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.
- (2) In respect of any sum paid by a public authority in the United Kingdom as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

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**Modifications etc. (not altering text)**

- C36** S. 179 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to the British Indian Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)  
 S. 179 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)  
 S. 179 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)  
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 S. 179 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)  
 S. 179 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

**180 Supplementary provisions as to proceedings involving the Fund.**

- (1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative.
- (2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

**Modifications etc. (not altering text)**

- C37** S. 180 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
 S. 180 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
 S. 180 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
 S. 180 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
 S. 180 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
 S. 180 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585, arts. 2, 3, Sch.](#)  
 S. 180 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)



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**Status:** Point in time view as at 01/02/1998. This version of this Act contains provisions that are not valid for this point in time.  
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S. 180 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**  
S. 180 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**  
S. 180 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**  
S. 180 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 180 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
S. 180 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**  
S. 180 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**  
S. 180 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

**181** (1) In this Chapter, unless the context otherwise requires—

“damage” includes loss;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil from the ship;

“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 163;

“incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

“oil”, except in sections 173 and 174, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means—

- (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship,
- (b) the cost of preventive measures, and
- (c) further damage caused by preventive measures,

but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of—

- (i) any loss of profits, or
- (ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;

“preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken—

- (a) after an incident has occurred, or
- (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship; and

“ship” means any ship (within the meaning of Chapter III of this Part) to which section 153 applies.

(2) For the purposes of this Chapter—

**Status:** Point in time view as at 01/02/1998. This version of this Act contains provisions that are not valid for this point in time.

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- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
  - (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.
- (3) References in this Chapter to the territory of any country shall be construed in accordance with section 170(4) reading the reference to a Liability Convention country as a reference to a Fund Convention country.

**Modifications etc. (not altering text)**

- C38** S. 181 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, Sch.
- S. 181 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, Sch.
- S. 181 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, Sch.
- S. 181 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, Sch.
- S. 181 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, Sch.
- S. 181 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, Sch.
- S. 181 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, Sch.
- S. 181 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, Sch.
- S. 181 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, Sch.
- S. 181 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, Sch.
- S. 181 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1
- S. 181 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1
- S. 181 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, Sch.
- S. 181 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, Sch.
- S. 181 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, Sch.

**182 Transitory text of this Chapter and power to make transitional provisions.**

- (1) Until such day as the Secretary of State may by order appoint the provisions set out in Schedule 4 as Chapter IV shall have effect instead of the foregoing provisions of this Chapter; and references in that Schedule to a section whose number is included in that Schedule is a reference to the section so included.
- (2) Notwithstanding subsection (1) above, Her Majesty may by Order in Council make such provision as appears to Her Majesty to be appropriate in connection with the implementation of any transitional provisions contained in the 1992 Protocol or the Conventions which they amend; and any such Order may in particular provide, in relation to occurrences of any description specified in the Order—
- (a) for specified provisions of this Chapter, whether as contained in this Chapter or in the Chapter IV set out in Schedule 4, to have effect;
  - (b) for any such provisions to have effect subject to specified modifications.

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(3) In subsection (2) above—

“the 1992 Protocol” means the Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 signed in London on 27th November 1992; and

“specified” means specified in the Order.

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**Subordinate Legislation Made**

**P2** S. 182(1) power exercised (30.5.1996) by S.I. 1996/1210, **art. 2**

[<sup>F49</sup>CHAPTER V

CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES

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**Textual Amendments**

**F49** Pt. VI Ch. V (ss. 182A-182C) and heading inserted (17.7.1997) by 1997 c. 28, s. 14(1); S.I. 1997/1539, art. 2, **Sch.**

<sup>F50</sup>**182A Introductory.**

- (1) In this Chapter, unless the context otherwise requires, “the Convention” means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996.
- (2) The text of the Convention, excluding the annexes, is set out in Schedule 5A.
- (3) In interpreting the definition of “hazardous and noxious substances” in Article 1, paragraph 5 of the Convention, any reference in that paragraph to a particular convention or code as amended shall be taken to be a reference to that convention or code as amended from time to time (whether before or after the commencement of this Chapter).

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**Textual Amendments**

**F50** Pt. VI Ch. V (ss. 182A-182C) inserted (17.7.1997) by 1997 c. 28, s. 14(1); S.I. 1997/1539, art. 2, **Sch.**

<sup>F51</sup>**182B Power to give effect to Convention.**

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to—
  - (a) the Convention on or after its ratification by the United Kingdom; or
  - (b) any revision of the Convention which appears to Her Majesty in Council to have been agreed to by the Government of the United Kingdom.
- (2) The power conferred by subsection (1) above to make provision for the purpose of giving effect to the Convention or an agreement revising the Convention includes

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power to provide for the provision to come into force even though the Convention or the agreement has not come into force.

- (3) Without prejudice to the generality of subsection (1) above, an Order under that subsection may include provision—
- (a) requiring contributions to be paid in accordance with the Convention to the International Hazardous and Noxious Substances Fund established under the Convention;
  - (b) for applying for the purpose mentioned in subsection (1) above any enactment or instrument relating to the pollution of the sea or other waters (including provisions creating offences) with such modifications, if any, as may be prescribed by the Order;
  - (c) making such modifications of any enactment or instrument (including, where the Order is made under paragraph (b) of that subsection, modifications of Schedule 5A and section 182C) as appear to Her Majesty to be appropriate for the purpose specified in that subsection;
  - (d) with respect to the application of the Order to the Crown;
  - (e) for detaining any ship in respect of which a contravention of a provision made by or under the Order is suspected to have occurred and, in relation to such a ship, for applying section 284 with such modifications, if any, as are prescribed by the Order;
  - (f) for a certificate issued by or on behalf of the Secretary of State and stating that at a particular time a particular substance was, or was not, a hazardous or noxious substance for the purposes of the Convention to be conclusive evidence of that matter.
- (4) An Order under subsection (1) above may—
- (a) make different provision for different circumstances;
  - (b) make provision for references in the Order to any specified document to operate as references to that document as revised or re-issued from time to time;
  - (c) provide for the delegation of functions exercisable by virtue of the Order;
  - (d) include such incidental, supplemental and transitional provisions as appear to Her Majesty to be expedient for the purposes of the Order; and
  - (e) authorise the making of regulations for the purposes of this section (except the purposes of subsection (3)(a), (b) and (c) above).
- (5) A draft of an Order in Council proposed to be made by virtue of this section shall not be submitted to Her Majesty in Council unless it has been approved by a resolution of each House of Parliament.

#### Textual Amendments

**F51** Pt. VI Ch. V (ss. 182A-182C) inserted (17.7.1997) by 1997 c. 28, s. 14(1); S.I. 1997/1539, art. 2, Sch.

#### <sup>F52</sup>182C Power of Secretary of State to make orders.

- (1) The Secretary of State may by order make such amendments of Schedule 5A and any Order in Council under section 182B(1) as appear to him to be appropriate for the purpose of giving effect to any amendment of a relevant limit which is adopted in accordance with article 48 of the Convention.

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- (2) In subsection (1) above, “a relevant limit” means any of the limits for the time being specified in article 9, paragraph 1 and article 14, paragraph 5 of the Convention.]

#### Textual Amendments

**F52** Pt. VI Ch. V (ss. 182A-182C) inserted (17.7.1997) by 1997 c. 28, s. 14(1); S.I. 1997/1539, art. 2, Sch.

## PART VII

### LIABILITY OF SHIPOWNERS AND OTHERS

#### *Carriage of passengers and luggage by sea*

#### **183 Scheduled convention to have force of law.**

- (1) The provisions of the Convention relating to the Carriage of Passengers and their Luggage by Sea as set out in Part I of Schedule 6 (hereafter in this section and in Part II of that Schedule referred to as “the Convention”) shall have the force of law in the United Kingdom.
- (2) The provisions of Part II of that Schedule shall have effect in connection with the Convention and subsection (1) above shall have effect subject to the provisions of that Part.
- (3) If it appears to Her Majesty in Council that there is a conflict between the provisions of this section or of Part I or II of Schedule 6 and any provisions relating to the carriage of passengers or luggage for reward by land, sea or air in—
- any convention which has been signed or ratified by or on behalf of the government of the United Kingdom before 4th April 1979 (excluding the Convention); or
  - any enactment of the Parliament of the United Kingdom giving effect to such a convention,
- She may by Order in Council make such modifications of this section or that Schedule or any such enactment as She considers appropriate for resolving the conflict.
- (4) If it appears to Her Majesty in Council that the government of the United Kingdom has agreed to any revision of the Convention She may by Order in Council make such modification of Parts I and II of Schedule 6 as She considers appropriate in consequence of the revision.
- (5) Nothing in subsection (1) or (2) above or in any modification made by virtue of subsection (3) or (4) above shall affect any rights or liabilities arising out of an occurrence which took place before the day on which the said subsection (1) or (2) above, or as the case may be, the modification, comes into force.
- (6) This section shall bind the Crown, and any Order in Council made by virtue of this section may provide that the Order or specified provisions of it shall bind the Crown.
- (7) A draft of an Order in Council proposed to be made under subsection (3) or (4) above shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament.

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## 184 Application of Schedule 6 to carriage within British Islands.

- (1) Her Majesty may by Order in Council provide that Part I of Schedule 6—
- (a) shall have the force of law in the United Kingdom, with such modifications as are specified in the Order, in relation to, and to matters connected with, a contract of carriage where the places of departure and destination under the contract are within the British Islands and under the contract there is no intermediate port of call outside those Islands; and
  - (b) shall, as modified in pursuance of paragraph (a) above, have effect in relation to, and to matters connected with, any such contract subject to the provisions of Part II of that Schedule or to those provisions with such modifications as are specified in the Order.
- (2) An Order in Council made by virtue of subsection (1) above may contain such provisions, including provisions modifying section 28 of the <sup>M53</sup>Unfair Contract Terms Act 1977 (which relates to certain contracts as respects which the Convention mentioned in section 183(1) does not have the force of law in the United Kingdom), as the Secretary of State considers appropriate for the purpose of dealing with matters arising in connection with any contract to which the said section 28 applies before the Order is made.
- (3) An Order in Council made by virtue of subsection (1) above may provide that the Order or specified provisions of it shall bind the Crown.
- (4) A draft of an Order in Council proposed to be made by virtue of subsection (1) above shall not be submitted to Her Majesty in Council unless the draft of the Order in Council has been approved by a resolution of each House of Parliament.
- (5) In subsection (1) above expressions to which meanings are assigned by article 1 of the Convention set out in Part I of Schedule 6 have those meanings but any reference to a contract of carriage excludes such a contract which is not for reward.

### Marginal Citations

**M53** 1977 c. 50.

### *Limitation of liability of shipowners, etc and salvors for maritime claims*

## 185 Limitation of liability for maritime claims.

- (1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 as set out in Part I of Schedule 7 (in this section and Part II of that Schedule referred to as “the Convention”) shall have the force of law in the United Kingdom.
  - (2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and subsection (1) above shall have effect subject to the provisions of that Part.
- <sup>F53F53</sup>(2A) Her Majesty may by Order in Council make such modifications of Parts I and II of Schedule 7 as She considers appropriate in consequence of the revision of the Convention by the Protocol of 1996 amending the Convention (in this section referred to as “the 1996 Protocol”).

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- <sup>F53</sup>(2B) If it appears to Her Majesty in Council that the Government of the United Kingdom has agreed to any further revision of the Convention or to any revision of article 8 of the 1996 Protocol, She may by Order in Council make such modifications of Parts I and II of Schedule 7 and subsections (2C) and (2D) below as She considers appropriate in consequence of the revision.
- <sup>F53</sup>(2C) The Secretary of State may by order make such amendments of Parts I and II of Schedule 7 as appear to him to be appropriate for the purpose of giving effect to any amendment of a relevant limit which is adopted in accordance with article 8 of the 1996 Protocol.
- <sup>F53</sup>(2D) In subsection (2C) above “a relevant limit” means any of the limits for the time being specified in either of the following provisions of the Convention—
- (a) article 6, paragraph 1, and
  - (b) article 7, paragraph 1.
- <sup>F53</sup>(2E) No modification made by virtue of subsection (2A), (2B) or (2C) above shall affect any rights or liabilities arising out of an occurrence which took place before the day on which the modification comes into force.]
- (3) The provisions having the force of law under this section shall apply in relation to Her Majesty’s ships as they apply in relation to other ships.
  - (4) The provisions having the force of law under this section shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if—
    - (a) he is so on board or employed under a contract of service governed by the law of any part of the United Kingdom; and
    - (b) the liability arises from an occurrence which took place after the commencement of this Act.

In this subsection,

“ship” and “salvage operations” have the same meaning as in the Convention.

- [<sup>F54</sup>(5) A draft of an Order in Council proposed to be made by virtue of subsection (2A) or (2B) above shall not be submitted to Her Majesty in Council unless it has been approved by a resolution of each House of Parliament.]

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**Textual Amendments**

**F53** S. 185(2A)-(2E) inserted (17.7.1997) by 1997 c. 28, s. 15(1); S.I. 1997/1539, art. 2, Sch.

**F54** S. 185(5) inserted (17.7.1997) by 1997 c. 28, s. 15(2); S.I. 1997/1539, art. 2, Sch.

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**Modifications etc. (not altering text)**

**C39** S. 185 extended (with modifications) to specified colonies (30.11.1997) by S.I. 1997/2579, art. 2, Schs. 1, 2

**186 Exclusion of liability.**

- (1) Subject to subsection (3) below, the owner of a United Kingdom ship shall not be liable for any loss or damage in the following cases, namely—

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- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
  - (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.
- (2) Subject to subsection (3) below, where the loss or damage arises from anything done or omitted by any person in his capacity of master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) above shall also exclude the liability of—
- (a) the master, member of the crew or servant; and
  - (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he is.
- (3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in Article 4 of the Convention set out in Part I of Schedule 7.
- (4) This section shall apply in relation to Her Majesty’s ships as it applies in relation to other ships.
- (5) In this section “owner”, in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

**Modifications etc. (not altering text)**

**C40** S. 186 extended (with modifications) to specified colonies (30.11.1997) by S.I. 1997/2579, art. 2, Schs. 1, 2

*Multiple fault; apportionment, liability and contribution*

**187 Damage or loss: apportionment of liability.**

- (1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was in fault.
- (2) If, in any such case, having regard to all the circumstances, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.
- (3) This section applies to persons other than the owners of a ship who are responsible for the fault of the ships, as well as to the owners of a ship and where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the ship, this section applies to the charterers or other persons for the time being so responsible instead of the owners.
- (4) Nothing in this section shall operate so as to render any ship liable for any loss or damage to which the fault of the ship has not contributed.



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- (5) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.
- (6) In this section “freight” includes passage money and hire.
- (7) In this section references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

**188 Loss of life or personal injuries: joint and several liability.**

- (1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships shall be joint and several.
- (2) Subsection (3) of section 187 applies also to this section.
- (3) Nothing in this section shall be construed as depriving any person of any right of defence on which, apart from this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in the manner provided by law.
- (4) Subsection (7) of section 187 applies also for the interpretation of this section.

**189 Loss of life or personal injuries: right of contribution.**

- (1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion in which the ship was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault.
- (2) Subsection (3) of section 187 applies also to this section.
- (3) Nothing in this section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.
- (4) In addition to any other remedy provided by law, the persons entitled to any contribution recoverable under this section shall, for the purposes of recovering it, have the same rights and powers as the persons entitled to sue for damages in the first instance.

*Time limit for proceedings against owners or ship*

**190 Time limit for proceedings against owners or ship.**

- (1) This section applies to any proceedings to enforce any claim or lien against a ship or her owners—

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- (a) in respect of damage or loss caused by the fault of that ship to another ship, its cargo or freight or any property on board it; or
  - (b) for damages for loss of life or personal injury caused by the fault of that ship to any person on board another ship.
- (2) The extent of the fault is immaterial for the purposes of this section.
- (3) Subject to subsections (5) and (6) below, no proceedings to which this section applies shall be brought after the period of two years from the date when—
- (a) the damage or loss was caused; or
  - (b) the loss of life or injury was suffered.
- (4) Subject to subsections (5) and (6) below, no proceedings under any of sections 187 to 189 to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal injury shall be brought after the period of one year from the date of payment.
- (5) Any court having jurisdiction in such proceedings may, in accordance with rules of court, extend the period allowed for bringing proceedings to such extent and on such conditions as it thinks fit.
- (6) Any such court, if satisfied that there has not been during any period allowed for bringing proceedings any reasonable opportunity of arresting the defendant ship within—
- (a) the jurisdiction of the court, or
  - (b) the territorial sea of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business,
- shall extend the period allowed for bringing proceedings to an extent sufficient to give a reasonable opportunity of so arresting the ship.

*Limitation of liability of harbour, conservancy, dock and canal authorities*

## **191 Limitation of liability.**

- (1) This section applies in relation to the following authorities and persons, that is to say, a harbour authority, a conservancy authority and the owners of any dock or canal.
- (2) The liability of any authority or person to which this section applies for any loss or damage caused to any ship, or to any goods, merchandise or other things whatsoever on board any ship shall be limited in accordance with subsection (5) below by reference to the tonnage of the largest United Kingdom ship which, at the time of the loss or damage is, or within the preceding five years has been, within the area over which the authority or person discharges any functions.
- (3) The limitation of liability under this section relates to the whole of any losses and damages which may arise on any one distinct occasion, although such losses and damages may be sustained by more than one person, and shall apply whether the liability arises at common law or under any general or local or private Act, and notwithstanding anything contained in such an Act.
- (4) This section does not exclude the liability of an authority or person to which it applies for any loss or damage resulting from any such personal act or omission of the authority or person as is mentioned in Article 4 of the Convention set out in Part I of Schedule 7.

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- (5) The limit of liability shall be ascertained by applying to the ship by reference to which the liability is to be determined the method of calculation specified in paragraph 1(b) of Article 6 of the Convention set out in Part I of Schedule 7 read with paragraph 5(1) and (2) of Part II of that Schedule.
- (6) Articles 11 and 12 of that Convention and paragraphs 8 and 9 of Part II of that Schedule shall apply for the purposes of this section.
- (7) For the purposes of subsection (2) above a ship shall not be treated as having been within the area over which a harbour authority or conservancy authority discharges any functions by reason only that it has been built or fitted out within the area, or that it has taken shelter within or passed through the area on a voyage between two places both situated outside that area, or that it has loaded or unloaded mails or passengers within the area.
- (8) Nothing in this section imposes any liability for any loss or damage where no liability exists apart from this section.
- (9) In this section—
  - “dock” includes wet docks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks, gridirons, slips, quays, wharves, piers, stages, landing places and jetties; and
  - “owners of any dock or canal” includes any authority or person having the control and management of any dock or canal, as the case may be.

#### *Application to Crown and its ships*

### **192 Application to Crown and its ships.**

- (1) Sections 185, 186, 187, 188, 189 and 190 (except subsection (6)) apply in the case of Her Majesty’s ships as they apply in relation to other ships and section 191 applies to the Crown in its capacity as an authority or person specified in subsection (1).
- (2) In this section “Her Majesty’s ships” means—
  - (a) ships of which the beneficial interest is vested in Her Majesty;
  - (b) ships which are registered as Government ships;
  - (c) ships which are for the time being demised or sub-demised to or in the exclusive possession of the Crown;except that it does not include any ship in which Her Majesty is interested otherwise than in right of Her Government in the United Kingdom unless that ship is for the time being demised or sub-demised to Her Majesty in right of Her Government in the United Kingdom or in the exclusive possession of Her Majesty in that right.
- (3) In the application of subsection (2) above to Northern Ireland, any reference to Her Majesty’s Government in the United Kingdom includes a reference to Her Government in Northern Ireland.

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### [<sup>F55</sup> Regulations requiring insurance or security

#### Textual Amendments

**F55** S. 192A and crossheading inserted (19.3.1997) by 1997 c. 28, ss. 16, 31(4)

#### <sup>F56</sup> 192A Compulsory insurance or security

- (1) Subject to subsections (2) and (3) below, the Secretary of State may make regulations requiring that, in such cases as may be prescribed by the regulations, while a ship is in United Kingdom waters, there must be in force in respect of the ship—
  - (a) a contract of insurance insuring such person or persons as may be specified by the regulations against such liabilities as may be so specified and satisfying such other requirements as may be so specified, or
  - (b) such other security relating to those liabilities as satisfies requirements specified by or under the regulations.
- (2) Regulations under this section shall not apply in relation to—
  - (a) a qualifying foreign ship while it is exercising—
    - (i) the right of innocent passage, or
    - (ii) the right of transit passage through straits used for international navigation,
  - (b) any warship, or
  - (c) any ship for the time being used by the government of any State for other than commercial purposes.
- (3) Regulations under this section may not require insurance or security to be maintained in respect of a ship in relation to any liability in any case where an obligation to maintain insurance or security in respect of that ship in relation to that liability is imposed by section 163 or by or under an Order in Council under section 182B.
- (4) Regulations under this section may require that, where a person is obliged to have in force in respect of a ship a contract of insurance or other security, such documentary evidence as may be specified by or under the regulations of the existence of the contract of insurance or other security must be carried in the ship and produced on demand, by such persons as may be specified in the regulations, to such persons as may be so specified.
- (5) Regulations under this section may provide—
  - (a) that in such cases as are prescribed a ship which contravenes the regulations shall be liable to be detained and that section 284 shall have effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship,
  - (b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine of an amount not exceeding £50,000, or such less amount as is prescribed by the regulations, and on conviction on indictment by a fine, and
  - (c) that any such contravention shall be an offence punishable only on summary conviction by a fine of an amount not exceeding £50,000, or such less amount as is prescribed by the regulations.
- (6) Regulations under this section may—

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- (a) make different provision for different cases,
- (b) make provision in terms of any document which the Secretary of State or any person considers relevant from time to time, and
- (c) include such incidental, supplemental and transitional provision as appears to the Secretary of State to be expedient for the purposes of the regulations.]

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**Textual Amendments**

**F56** S. 192A inserted (19.3.1997) by 1997 c. 28, ss. 16, 31(4)

## PART VIII

### LIGHTHOUSES

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**Modifications etc. (not altering text)**

**C41** Pt. VIII (ss. 193-223) amended (12.1.1998) by S.I. 1997/3016, art. 2

#### *Lighthouse authorities*

##### *General and local lighthouse authorities.*

- 193** (1) For the purposes of this Part—
- (a) the Trinity House, as respects England and Wales and the adjacent seas and islands,
  - (b) the Commissioners of Northern Lighthouses, as respects Scotland and the adjacent seas and islands, and
  - (c) the Commissioners of Irish Lights, as respects Northern Ireland and the adjacent seas and islands,
- are the general lighthouse authority.
- (2) For the purposes of this Part—
- (a) each [<sup>F57</sup>statutory harbour authority], as respects their area, and
  - (b) any other existing local lighthouse authority, as respects their area,
- are the local lighthouse authority.
- (3) Schedule 8 shall have effect as respects the Commissioners of Northern Lighthouses.
- (4) In this Part “area” means—
- (a) in relation to a general lighthouse authority specified in subsection (1)(a), (b) or (c) above, the area specified in that paragraph as the area of that authority;
  - (b) in relation to a [<sup>F58</sup>statutory harbour authority], the area or areas inside the limits within which the authority’s statutory powers and duties as a harbour authority are exercisable; and
  - (c) in relation to any other existing local lighthouse authority, the existing area over which their authority extends in relation to lighthouses, buoys and beacons;

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and for the purposes of subsection (2)(b) above and paragraph (c) above “existing” means existing for the purposes of the 1894 Act immediately before the repeal of that Act by this Act.

- (5) Subject to paragraph 9(1) of Schedule 14, the Trinity House are also the general lighthouse authority as respects Gibraltar and, subject to sub-paragraph (2) of that paragraph, the Channel Islands; and the Commissioners of Northern Lights are also the general lighthouse authority as respects the Isle of Man, and the seas adjacent to those territories.

#### Textual Amendments

- F57** Words in s. 193(2)(a) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 6(a)**; S.I. 1997/1539, art. 2, **Sch.**
- F58** Words in s. 193(4)(b) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 6(b)**; S.I. 1997/1539, art. 2, **Sch.**

#### *Information to Secretary of State*

#### **194 Returns and information to Secretary of State.**

Every general lighthouse authority and their officers shall give to the Secretary of State all such returns, explanations or information in relation to the lighthouses, buoys or beacons within their area and their management as the Secretary of State requires.

#### *Functions of general lighthouse authorities*

#### **195 General function of management of lighthouses, etc.**

- (1) Subject to the following provisions of this Part and to the powers and rights of any local lighthouse authority, the general lighthouse authorities shall have the superintendence and management of all lighthouses, buoys and beacons within their respective areas.
- (2) Subject to the following provisions of this Part, the general lighthouse authorities shall continue to hold and maintain all property vested in them at the commencement of this Act in the same manner and for the same purposes as before.

#### **196 Joint discharge of functions.**

- (1) Two or more general lighthouse authorities may discharge any of their functions jointly, and for that purpose—
  - (a) those authorities may share any part of their respective establishments; and
  - (b) any of them may, in the area of another and on that other’s behalf, execute any works or do any other thing which the authority have power to execute or do in their own area;
 and any enactment relating to the functions in question or to the authorities by whom or the areas in which those functions are to be discharged shall be construed accordingly.
- (2) Any expenses incurred by any of the general lighthouse authorities in pursuance of this section shall be apportioned between that authority and the other authority or

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authorities concerned in such manner as may be agreed between them or (in default of agreement) determined by the Secretary of State.

### 197 General powers of general lighthouse authority.

- (1) Subject to subsection (2) below, a general lighthouse authority shall, within their area, have power—
  - (a) to erect or place any lighthouse, with all requisite works, roads and appurtenances;
  - (b) to add to, alter, or remove any lighthouse;
  - (c) to erect or place any buoy or beacon, or alter or remove any buoy or beacon;
  - (d) to vary the character of any lighthouse or the mode of exhibiting lights therein.
- (2) A general lighthouse authority shall not in the area of a [<sup>F59</sup>statutory harbour authority]—
  - (a) erect or place any lighthouse, works, roads or appurtenances under subsection (1)(a) above, or
  - (b) erect or place any buoy or beacon under subsection (1)(c) above,except in pursuance of a direction given by the Secretary of State.
- (3) The Secretary of State may give such a direction to a general lighthouse authority if he considers it appropriate to do so in the interests of general navigation.
- (4) Where any improved light or beacon, or any siren or any description of fog signal has been added to an existing lighthouse, the light or beacon, siren or signal may, for the purposes of this Part, be treated as if it were a separate lighthouse.
- (5) A general lighthouse authority may acquire any land which may be necessary for—
  - (a) the exercise of their powers under subsection (1) above;
  - (b) the maintenance of their works; or
  - (c) the residence of the light keepers.
- (6) For the purposes of the acquisition of land by a general lighthouse authority under subsection (5) above the following provisions shall apply—
  - (a) if the land is in England and Wales, the provisions of Part I of the <sup>M54</sup>Compulsory Purchase Act 1965 (so far as applicable) except sections 4 to 8, 27 and 31;
  - (b) if the land is in Scotland, the provisions of the Lands Clauses Acts (so far as applicable) except sections 120 to 125, 127, 142 and 143 of the <sup>M55</sup>Lands Clauses Consolidation (Scotland) Act 1845;
  - (c) if the land is in Northern Ireland, the provisions of the Lands Clauses Acts (so far as applicable) except sections 16 to 20, 92 to 94, 123, 127 to 132, 150 and 151 of the <sup>M56</sup>Lands Clauses Consolidation Act 1845.
- (7) A general lighthouse authority may sell [<sup>F60</sup>or lease] any land belonging to them.
- [<sup>F61</sup><sup>F61</sup>(8) Where it appears to a general lighthouse authority that any asset of theirs which is held in connection with the discharge of their functions under section 195 has spare capacity, they may, with the consent of the Secretary of State, enter into an agreement for the purpose of exploiting that spare capacity.
- <sup>F61</sup>(9) For the purposes of subsection (8) above an asset has spare capacity if—

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- (a) during any period there are times (or there is a time) when it is not needed in connection with the discharge of the general lighthouse authority's functions under section 195;
- (b) there is any period when it is not being used to its full capacity in connection with the discharge of those functions; or
- (c) it has ceased to be used in connection with the discharge of those functions but it is not for the time being expedient to realise the asset.

<sup>F61</sup>(10) Any consent under subsection (8) above may be given—

- (a) unconditionally or subject to conditions; and
- (b) in relation to a particular case or in relation to such description of cases as may be specified in the consent.

<sup>F61</sup>(11) A general lighthouse authority shall send to the Secretary of State a copy of every agreement entered into by them by virtue of subsection (8) above.]

#### Textual Amendments

**F59** Words in s. 197(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 7**; S.I. 1997/1539, art. 2, **Sch.**

**F60** Words in s. 197(7) inserted (17.7.1997) by 1997 c. 28, s. 19(1); S.I. 1997/1539, art. 2, **Sch.**

**F61** S. 197(8)-(11) inserted (17.7.1997) by 1997 c. 28, s. 19(2); S.I. 1997/1539, art. 2, **Sch.**

#### Marginal Citations

**M54** 1965 c. 56.

**M55** 1845 c. 18.

**M56** 1845 c. 19.

## 198 Inspection of local lighthouses.

- (1) It shall be the duty of the general lighthouse authority for any area, or of any person authorised by that authority for the purpose, to—
  - (a) inspect all lighthouses, buoys and beacons situated within their area but belonging to or under the management of any local lighthouse authority; and
  - (b) make such inquiries about them and their management as they think fit.
- (2) All officers and others having the care, or concerned in the management, of any such local lighthouses, buoys or beacons shall furnish all such information and explanations concerning them as the general lighthouse authority require.
- (3) All local lighthouse authorities and their officers shall give to the general lighthouse authority all such returns, explanations or information concerning the lighthouses, buoys and beacons under their management and the management of them as the general lighthouse authority may require.
- (4) The general lighthouse authority shall—
  - (a) communicate to each local lighthouse authority the results of their inspection of their lighthouses, buoys and beacons; and
  - (b) make to the Secretary of State general reports of the results of the inspection of local lighthouses, buoys and beacons.



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## **199 Control of local lighthouse authorities.**

- (1) A general lighthouse authority may, within their area, with the consent of the Secretary of State, direct a local lighthouse authority to—
  - (a) lay down buoys;
  - (b) remove or discontinue any lighthouse, buoy or beacon; or
  - (c) make any variation in the character of any lighthouse, buoy or beacon or in the mode of exhibiting lights in any lighthouse, buoy or beacon;but the authority shall not give a direction without first giving due notice of their intention to do so.
- (2) A local lighthouse authority shall not, without the consent of the general lighthouse authority,—
  - (a) erect or place any lighthouse, buoy or beacon;
  - (b) remove or discontinue any lighthouse, buoy or beacon;
  - (c) vary the character of any lighthouse, buoy or beacon or the mode of exhibiting lights in any lighthouse, buoy or beacon.
- (3) A direction under subsection (1) above shall be given in writing; and it shall be the duty of a local lighthouse authority to whom such a direction is given to comply with it.
- (4) Nothing in this section shall apply to local buoys and beacons placed or erected for temporary purposes.

### *Inspections by Secretary of State*

## **200 Powers of inspection by Secretary of State.**

- (1) The Secretary of State may, on complaint that any lighthouse, buoy or beacon under the management of a general lighthouse authority, or any work connected with it, is—
  - (a) inefficient,
  - (b) improperly managed, or
  - (c) unnecessary,authorise any persons appointed by him to inspect the lighthouse, buoy or beacon or any connected work.
- (2) A person so authorised may—
  - (a) inspect the lighthouse, buoy or beacon; and
  - (b) make any inquiries which he thinks fit as to the lighthouse, buoy or beacon and its management.
- (3) All officers and others having the care, or concerned in the management, of any lighthouse, buoy or beacon in relation to which powers under this section are being exercised shall furnish any information and explanations in relation to it and its management which the person inspecting it requires.

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*Powers of harbour authorities as local lighthouse authorities*

**201 Powers of harbour authorities.**

- (1) Every [<sup>F62</sup>statutory harbour authority] shall have power to carry out harbour operations to which subsection (2) below applies either within the authority’s area or on harbour land.
- (2) This subsection applies to harbour operations consisting of the marking or lighting of a harbour or any part of a harbour.
- (3) In this section “harbour land” and “harbour operations” have the same meanings as in the <sup>M57</sup>Harbours Act 1964 or, as respects Northern Ireland, as in the <sup>M58</sup>Harbours Act (Northern Ireland) 1970.

**Textual Amendments**

**F62** Words in s. 201(1) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 8**; S.I. 1997/1539, art. 2, **Sch.**

**Marginal Citations**

**M57** 1964 c. 40.  
**M58** 1970 c. 1 (N.I.)

*Transfers between general and local lighthouse authorities*

<sup>F63</sup>**202** .....

**Textual Amendments**

**F63** S. 202 repealed (17.7.1997) by 1997 c. 28, s. 29(1)(2), Sch. 6 para. 9, **Sch. 7 Pt. I**; S.I. 1997/1539, art. 2, **Sch.**

**203 Individual transfers of local lighthouses to harbour authorities.**

A general lighthouse authority may, at any time, with the consent of the Secretary of State, transfer to a [<sup>F64</sup>statutory harbour authority] any lighthouse, buoy or beacon held by the general lighthouse authority which—

- (a) is situated in the area of that harbour authority or on land adjacent to that area or any part of it; and
- (b) appears to the general lighthouse authority to be of benefit solely or mainly to ships within, or entering or leaving, that harbour authority’s area.

**Textual Amendments**

**F64** Words in s. 203 substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 10**; S.I. 1997/1539, art. 2, **Sch.**

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## 204 Surrender of local lighthouses.

- (1) A local lighthouse authority may, if they think fit, surrender or sell any lighthouse, buoy or beacon held by them to the general lighthouse authority within whose area it is situated, and that general lighthouse may, with the consent of the Secretary of State, accept or purchase it.
- (2) The Secretary of State shall not give his consent for the purposes of subsection (1) above in any case where the local lighthouse authority concerned are a [<sup>F65</sup>statutory harbour authority] unless he considers that the maintenance of the lighthouse, buoy or beacon in question is in the interests of general navigation.

### Textual Amendments

**F65** Words in s. 204(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 11**; S.I. 1997/1539, art. 2, **Sch.**

### *General light dues*

## 205 Light dues leviable by general lighthouse authorities.

- (1) This section applies to dues leviable by a general lighthouse authority in respect of lighthouses, buoys or beacons under their management (in this Part called “general light dues”).
- (2) A general lighthouse authority may demand, take and recover general light dues in accordance with this section and for that purpose appoint persons to collect them.
- (3) General light dues shall be levied only by reference to the voyages made by ships or by way of periodical payments.
- (4) General light dues shall be payable in respect of all ships whatever, except—
  - (a) ships belonging to Her Majesty, and
  - (b) ships exempted from payment in pursuance of subsection (5) below.
- (5) The Secretary of State may make regulations with respect to the amounts and the levying of general light dues (including the cases in which the dues are not to be levied) and the regulations may make different provision for different circumstances.
- (6) A copy of the regulations in force under subsection (5) above in respect of general light dues shall be kept at—
  - (a) the principal office of the general lighthouse authority, and
  - (b) the office of the appointed collector at every port where such dues are collected;and shall be open for inspection there during reasonable hours by any person without charge.
- (7) Every person appointed by a general lighthouse authority to collect general light dues shall collect all such dues payable at the port at which he is so appointed or (as the case may be) such of those dues as he is appointed to collect, whether they are collected on account of that authority or on account of one of the other general lighthouse authorities.

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- (8) Any person appointed by a general lighthouse authority to collect general light dues shall pay over to that authority, or as that authority directs, the whole of the general light dues received by him.
- (9) A general lighthouse authority receiving dues (whether themselves or from a collector) shall keep accounts of the dues and shall cause the dues to be remitted [<sup>F66</sup>to the Secretary of State or as he directs, and in such manner as he directs.].

#### Textual Amendments

**F66** Words in s. 205(9) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 12**; S.I. 1997/1539, art. 2, **Sch.**

### 206 Information to determine light dues.

- (1) A general lighthouse authority may, for the purpose of determining whether any and, if so, what general light dues are payable in respect of any ship, require any relevant authority or any person who is liable to pay general light dues in respect of the ship, to furnish to the general lighthouse authority such information in that authority's or person's possession or control relating to the arrival or departure of the ship at or from any port within their area as they may reasonably require for that purpose.
- (2) A general lighthouse authority may require any relevant authority to furnish to them such information in the relevant authority's possession or control relating to the movements within the relevant authority's area of ships or ships of any class or description for the purpose of determining whether any and, if so, what general light dues are payable in respect of the ships.
- (3) The powers conferred on a general lighthouse authority by subsections (1) and (2) above shall also be available to the person appointed by them to collect dues at a port.
- (4) It shall be the duty of a relevant authority or person of whom a requirement for information is made under subsection (1), (2) or (3) above to furnish information as soon as is reasonably practicable.
- (5) In this section "relevant authority" means—
  - (a) a harbour authority;
  - (b) the Commissioners of Customs and Excise; and
  - (c) a conservancy authority.

### 207 Recovery of general light dues.

- (1) The following persons shall be liable to pay general light dues in respect of any ship in respect of which such dues are payable, namely—
  - (a) the owner or master; or
  - (b) such consignees or agents of the owner or master as have paid, or made themselves liable to pay, any other charge on account of the ship in the port of her arrival or discharge.
- (2) General light dues so payable in respect of any ship may, in England and Wales and Northern Ireland, be recovered summarily as a civil debt.

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- (3) In Scotland general light dues shall, for the purposes of their recovery, be regarded as a debt due to the general lighthouse authority.
- (4) Any consignee or agent (not being the owner or master of the ship) who is, by this section, made liable for the payment of general light dues in respect of any ship may, out of any money received by him on account of the ship or belonging to its owner, retain the amount of all general light dues paid by him, together with any reasonable expenses he may have incurred by reason of the payment of the dues or his liability to pay them.

#### **208 Distress on ship for general light dues.**

- (1) If the owner or master of any ship fails, on demand of the appointed collector, to pay the general light dues due in respect of the ship, the collector may enter the ship and distrain the goods or any equipment or other thing belonging to, or on board, the ship and detain that distress until those dues are paid.
- (2) If payment of the dues so demanded is not made within the period of five days following the distress, the collector may, at any time during the continuance of the non-payment, cause the distress to be independently appraised and thereupon sold by public auction.
- (3) The collector shall apply the proceeds of the sale in payment of—
  - (a) the general light dues due; and
  - (b) all reasonable expenses incurred by him under this section;and shall pay the surplus (if any), on demand, to the owner or master of the ship.
- (4) The remedy conferred by this section is in addition to any other remedy available to the collector or the general lighthouse authority by whom he was appointed.
- (5) This section does not apply to Scotland.

#### **209 Receipt for general light dues and its production.**

- (1) A receipt for general light dues shall be given to the person paying them by the authority or person receiving them from him.
- (2) A ship may be detained at any port until the receipt for any general light dues due in respect of the ship is produced to the proper officer of customs and excise or the person appointed to collect general light dues at the port.

#### *Local light dues*

#### **210 Light dues leviable by local lighthouse authorities.**

- (1) This section applies to charges leviable by a local lighthouse authority who are not a [F67 statutory harbour authority] in respect of lighthouses, buoys or beacons over which they have authority (in this section referred to as “local light dues”).
- (2) A local lighthouse authority (who are not a [F67 statutory harbour authority]) may demand, take and recover in respect of every ship which—
  - (a) enters or leaves the port, harbour or estuary in which is situated any lighthouse, buoy or beacon over which they have authority; and

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- (b) passes the lighthouse, buoy or beacon and derives benefit from it, such charges as they think fit.
- (3) The same persons shall be liable to pay local light dues as are liable to pay general light dues under section 207.
- (4) Local light dues may be recovered in the same manner as general light dues may be recovered under sections 207 and 208.
- (5) A list showing the local light dues leviable by a local lighthouse authority shall be kept at the authority's office and shall be open there during reasonable hours for inspection by any person without charge, and copies of the list shall be kept for sale there at such reasonable price (if any) as the authority determine.
- (6) No local light due shall be levied by a local lighthouse authority if, at the time at which it is leviable,—
- (a) the authority are in default in compliance with subsection (5) above as respects the keeping of the list of dues; or
  - (b) the light due is not shown in the list kept there at that time.
- (7) A copy of the list kept by a local lighthouse authority in pursuance of subsection (5) above shall be supplied by them to the Secretary of State without charge.
- (8) Section 31 of the <sup>M59</sup>Harbours Act 1964 (right of objection to ship, passenger and goods dues) shall apply in relation to local light dues subject, however, to the modifications specified in Schedule 10 to this Act.
- (9) All local light dues shall be applied by the authority by whom they are levied for the purpose of the construction, placing, maintenance and improvement of the lighthouses, buoys or beacons in respect of which the dues are levied, and for no other purpose.
- (10) The local lighthouse authority to whom any local light dues are paid shall keep a separate account of the receipt and expenditure of those dues.
- (11) This section does not apply to Northern Ireland.

#### **Textual Amendments**

**F67** Words in s. 210(1)(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 13**; S.I. 1997/1539, art. 2, **Sch.**

#### **Modifications etc. (not altering text)**

**C42** S. 210 applied (on and from the appointed day) by 2001 c. ii, s. 5(2)(b)

#### **Marginal Citations**

**M59** 1964 c. 40.

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### *Financial and administrative provisions*

#### **211 General Lighthouse Fund: expenses and receipts.**

- (1) There shall continue to be a fund called the General Lighthouse Fund administered by the Secretary of State.
- (2) The following shall be paid out of that Fund—
  - (a) any expenses incurred by general lighthouse authorities in connection with the discharge of their functions under this Part and, in the case of the Commissioners of Irish Lights as respects their functions in the Republic of Ireland, under the corresponding Part of the 1894 Act, subject, however, to section 213;
  - (b) any expenses (whether of a capital nature or not) incurred by the Secretary of State in pursuance of any international agreement relating to the provision of an electronic position-fixing system intended as an aid to the navigation of ships or incurred by him preliminary to his entering into such an agreement;
  - (c) such sums as the Secretary of State may determine as sums appearing to him to represent the amount or estimated amount of any expenses incurred or likely to be incurred by him in connection with the administration of the Fund;
  - (d) any expenses incurred by the Secretary of State in maintaining the Sombrero lighthouse in the Leeward Islands;
  - (e) any other sums made payable out of the Fund by any other provision of this Part or Part IX.
- (3) The following shall be paid into that Fund—
  - (a) all general light dues and other sums received by or accruing to any of the general lighthouse authorities by virtue of, or in connection with the discharge of their functions under, this Part and, in the case of the Commissioners of Irish Lights as respects their functions in the Republic of Ireland, under the corresponding Part of the 1894 Act;
  - (b) any sums received by the Secretary of State in pursuance of any such agreement as is mentioned in subsection (2)(b) above in respect of—
    - (i) expenses incurred by him in pursuance of the agreement, or
    - (ii) expenses incurred by any of the general lighthouse authorities which, by virtue of subsection (2) above, are payable out of the Fund;
  - (c) any other sums made payable into the Fund by any other provision of this Part or Part IX.
- (4) The accounts of the Fund for each year shall be examined by the Comptroller and Auditor General who shall send a copy of the accounts certified by him to the Secretary of State.
- (5) The Secretary of State shall lay copies of the accounts before each House of Parliament.

#### **212 Establishments of general lighthouse authorities.**

- (1) The Secretary of State may determine—
  - (a) the establishments to be maintained by each of the general lighthouse authorities on account of the services of lighthouses, buoys and beacons;

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- (b) the annual or other sums to be paid out of the General Lighthouse Fund in respect of those establishments or to members of the general lighthouse authority for England and Wales.
- (2) If it appears that any part of the establishments of the general lighthouse authorities is maintained for other purposes as well as for the purposes of their duties as general lighthouse authorities, the Secretary of State may determine the portion of the expenses of those establishments to be paid out of the General Lighthouse Fund.
- (3) An increase in any establishment or part of an establishment determined under this section shall not be made without the consent of the Secretary of State.

### **213 Estimates or accounts of expenses to Secretary of State.**

- (1) An expense of a general lighthouse authority in respect of the services of lighthouses, buoys and beacons shall not be paid out of the General Lighthouse Fund, or allowed in account, unless—
  - (a) it has been allowed as part of the establishment expenses under section 212; or
  - (b) an estimate or account of it has been approved by the Secretary of State.
- (2) For the purpose of approval by the Secretary of State, each of the general lighthouse authorities shall, except as provided by subsection (3) below, submit to him an estimate of all expenses to be incurred by them in respect of lighthouses, buoys and beacons, other than expenses allowed under section 212 on account of their establishments.
- (3) In a case where it is necessary for a general lighthouse authority, in providing for any sudden emergency, to incur any such expense as is mentioned in subsection (2) above without waiting for the approval of the Secretary of State under that subsection, the authority shall as soon as possible submit to him a full account of the expense incurred.
- (4) The Secretary of State shall consider any estimates and accounts submitted to him under this section and may approve them either with or without modification.

### **214 Pension rights of certain employees.**

There shall be payable to or in respect of persons whose salaries are paid out of the General Lighthouse Fund such pensions, allowances and gratuities as may be determined in accordance with—

- (a) in the case of such of those persons as are employed by the Secretary of State, arrangements made by him, and
- (b) in the case of other such persons, arrangements made by a general lighthouse authority and approved by the Secretary of State;

and those benefits shall be charged on and payable out of that Fund.

### **215 Borrowing powers of general lighthouse authorities.**

- (1) A general lighthouse authority may, with the consent of the Secretary of State and the Treasury, borrow money for the purpose of defraying any expenses incurred or to be incurred by the authority in connection with the discharge of their functions under this Part or Part IX.
- (2) A general lighthouse authority may, in connection with any advance to them under this section, mortgage any land or other property belonging to them.



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- (3) Any sums payable by a general lighthouse authority under the terms of an advance under this section by way of principal, interest or otherwise shall be paid out of the General Lighthouse Fund.

#### **216 Limit on borrowings under section 215.**

- (1) The aggregate amount outstanding in respect of the principal of any sums borrowed under section 215 shall not at any time exceed £100 million.
- (2) The Secretary of State may, by order, with the approval of the Treasury, increase or further increase that limit, but not by more than £33 million at a time.
- (3) An order shall not be made under subsection (2) above unless a draft of the order has been laid before and approved by a resolution of the House of Commons.

#### **217 Guarantees by Secretary of State.**

- (1) The Secretary of State with the consent of the Treasury may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums borrowed by a general lighthouse authority under section 215.
- (2) Immediately after a guarantee is given under this section, the Secretary of State shall lay a statement of the guarantee before each House of Parliament, and where any sum is issued for fulfilling a guarantee so given the Secretary of State shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before each House of Parliament a statement relating to that sum.
- (3) Any sums required by the Secretary of State for fulfilling any guarantee under this section shall be paid out of money provided by Parliament.
- (4) If any sums are issued in fulfilment of any guarantee given under this section there shall be made to the Secretary of State out of the General Lighthouse Fund, at such times and in such manner as the Secretary of State may determine with the consent of the Treasury, payments of such amounts as the Secretary of State may so determine in or towards repayment of the sums so issued, and payments of interest on what is outstanding for the time being in respect of sums so issued at such rate as the Secretary of State may so determine.
- (5) The Secretary of State, with the consent of the Treasury, may vary or revoke any determination made by him under subsection (4) above.
- (6) Any sums received by the Secretary of State under subsection (4) above shall be paid into the Consolidated Fund.

#### **218 Accounts of general lighthouse authorities.**

- (1) Each of the general lighthouse authorities shall account to the Secretary of State for the general light dues and other sums received by or accruing to them by virtue of, or in connection with, the discharge of their functions under this Part or Part IX and for their expenditure in respect of expenses paid out of the General Lighthouse Fund

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in such form, at such times, and with such details, explanations and vouchers as the Secretary of State requires.

- (2) Each of the general lighthouse authorities shall, when required by the Secretary of State, permit all accounting records kept by or under their respective direction to be inspected and examined by such persons as the Secretary of State appoints for the purpose.

*Offences in connection with lighthouses, buoys, beacons, etc.*

### **219 Damage etc. to lighthouses etc.**

- (1) A person who, without lawful authority—
- (a) intentionally or recklessly damages—
    - (i) any lighthouse or the lights exhibited in it, or
    - (ii) any lightship, buoy or beacon;
  - (b) removes, casts adrift or sinks any lightship, buoy or beacon; or
  - (c) conceals or obscures any lighthouse, buoy or beacon;
- commits an offence.
- (2) A person who, without reasonable excuse,—
- (a) rides by,
  - (b) makes fast to, or
  - (c) runs foul of,
- any lightship, buoy or beacon commits an offence.
- (3) A person who is guilty of an offence under this section shall, in addition to being liable for the expenses of making good any damage so occasioned, be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

### **220 Prevention of false lights.**

- (1) Whenever any light is exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, the general lighthouse authority within whose area the place is situated, may serve a notice (“a prevention notice”) upon the owner of the place where the light is exhibited or upon the person having the charge of the light.
- (2) A prevention notice is a notice directing the person to whom it is addressed to take, within a reasonable time specified in the notice, effectual means for extinguishing or effectually screening the light and for preventing for the future any similar light.
- (3) A prevention notice may, in addition to any other mode of service authorised by this Act, be served by affixing the notice in some conspicuous spot near to the light to which it relates.
- (4) If a person on whom a prevention notice is served fails, without reasonable excuse, to comply with the directions contained in the notice, he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (5) If a person on whom a prevention notice is served neglects for a period of seven days to extinguish or effectually screen the light mentioned in the notice, the general

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lighthouse authority may enter the place where the light is and forthwith extinguish it, doing no unnecessary damage.

- (6) Where a general lighthouse authority incur any expenses in exercising their powers under subsection (5) above they may recover the expenses from the person on whom the prevention notice was served.
- (7) Any such expenses may, in England and Wales and Northern Ireland, be recovered summarily as a civil debt.
- (8) In Scotland any such expenses shall, for the purposes of their recovery, be regarded as a debt due by the person on whom the notice has been served to the general lighthouse authority.

#### *Exemptions from taxes, duties, etc*

### **221 Exemption from taxes, duties, rates etc.**

- (1) The following, that is to say—
  - (a) all lighthouses, buoys and beacons,
  - (b) all general light dues and other rates, fees or payments accruing to or forming part of the General Lighthouse Fund, and
  - (c) all premises or property belonging to or occupied by any of the general lighthouse authorities,which are used or applied for the purposes of any of the services for which those dues, rates, fees and payments are received shall be exempt from all public or local taxes, duties or rates.
- (2) All instruments used by or under the direction of any general lighthouse authority in carrying on those services shall be exempt from stamp duty.
- (3) Stamp duty shall not be chargeable on any proposals under Schedule 9.
- (4) All instruments used by or under the direction of the Secretary of State in carrying this Part into effect shall be exempt from stamp duty.
- (5) All instruments which are required by any provision of this Part to be in a form approved by the Secretary of State, if made in that form, shall be exempt from stamp duty.

### **222 Exemption from harbour dues.**

All ships belonging to or used by any of the general lighthouse authorities or the Secretary of State shall be entitled to enter, resort to, and use any harbours, ports, docks or piers in the United Kingdom without any payment of tolls, dues or rates of any kind.

### **[<sup>F68</sup>222A] Disclosure of information to general lighthouse authorities.**

- (1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall prevent a Minister of the Crown or a Northern Ireland department from disclosing—
  - (a) to a general lighthouse authority, or

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- (b) to a person appointed by a general lighthouse authority to collect general light dues,  
information for the purpose of enabling or assisting the authority to discharge their functions under this Part.
- (2) Information obtained by any person by virtue of subsection (1) above shall not be disclosed by him to any other person except where the disclosure is made—
- (a) to a general lighthouse authority or a person appointed by such an authority to collect general light dues; or
- (b) for the purposes of any legal proceedings arising out of this Part.]

#### Textual Amendments

**F68** S. 222A inserted (17.7.1997) by 1997 c. 28, s. 20; S.I. 1997/1539, art. 2, Sch.

### *Supplemental*

#### **223 Interpretation, etc.**

- (1) In this Part—
- “buoys and beacons” includes all other marks and signs of the sea;
- “the Commissioners of Irish Lights” means the body incorporated by that name under the local Act of the session held in the 30th and 31st years of the reign of Queen Victoria intituled “An Act to alter the constitution of the Corporation for preserving and improving the port of Dublin and for other purposes connected with that body and with the Port of Dublin Corporation”;
- “general light dues” has the meaning given in section 205(1);
- “lighthouse” includes any floating and other light exhibited for the guidance of ships, and also any sirens and any other description of fog signals, and also any addition to a lighthouse of any improved light, or any siren, or any description of fog signal;
- “the Trinity House” means the master, wardens and assistants of the guild, fraternity or brotherhood of the most glorious and undivided Trinity and of St Clement in the parish of Deptford Strond in the county of Kent, commonly called the corporation of the Trinity House of Deptford Strond;
- “the 1894 Act” means the Merchant Shipping Act 1894.
- (2) Any reference in this Part to a lighthouse, buoy or beacon includes its appurtenances.
- (3) The Secretary of State may by order provide that references or a particular reference to a buoy or beacon in this Part shall be construed as including, in such circumstances as are specified in the order, equipment of a kind so specified which is intended as an aid in the navigation of ships.
- (4) No order shall be made under subsection (3) above unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

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## PART IX

### SALVAGE AND WRECK

#### CHAPTER 1

##### SALVAGE

#### 224 Salvage Convention 1989 to have force of law.

- (1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 11 (in this Chapter referred to as “the Salvage Convention”) shall have the force of law in the United Kingdom.
- (2) The provisions of Part II of that Schedule shall have effect in connection with the Salvage Convention, and subsection (1) above shall have effect subject to the provisions of that Part.
- (3) If it appears to Her Majesty in Council that the Government of the United Kingdom has agreed to any revision of the Salvage Convention She may by Order in Council make such modifications of Parts I and II of Schedule 11 as She considers appropriate in consequence of the revision.
- (4) Nothing in subsection (1) or (2) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before 1st January 1995.
- (5) Nothing in any modification made by virtue of subsection (3) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the day on which the modification comes into force.
- (6) As respects any period before the entry into force of the Salvage Convention any reference in the Salvage Convention to a State Party to the Convention shall be read as a reference to the United Kingdom.
- (7) A draft of an Order in Council proposed to be made by virtue of subsection (3) above shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament.

#### Modifications etc. (not altering text)

- C43** [S. 224](#) extended (with modifications) to Jersey (22.8.1997) by [S.I. 1997/1773](#), [art. 2](#), [Sch.](#)  
[S. 224](#) extended (with modifications) to specified colonies (30.11.1997) by [S.I. 1997/2586](#), [art. 2](#), [Schs.](#)  
[1](#), [2](#)

#### 225 Valuation of property by receiver.

- (1) Where any dispute as to salvage arises, the receiver may, on the application of either party, appoint a valuer to value the property.
- (2) When the valuation has been made the receiver shall give copies of it to both parties.

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- (3) A copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceedings.
- (4) There shall be paid in respect of the valuation by the person applying for it such fee as the Secretary of State may direct.

## **226 Detention of property liable for salvage by receiver.**

- (1) Where salvage is due to any person under this Chapter, the receiver shall—
  - (a) if the salvage is due in respect of services rendered—
    - (i) in assisting a vessel, or
    - (ii) in saving life from a vessel, or
    - (iii) in saving the cargo and equipment of a vessel, detain the vessel and cargo or equipment; and
  - (b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Chapter, detain the wreck.
- (2) Subject to subsection (3) below, the receiver shall detain the vessel and the cargo and equipment, or the wreck, as the case may be, until payment is made for salvage, or process is issued for the arrest or detention of the property by the court.
- (3) The receiver may release any property detained under subsection (2) above if security is given—
  - (a) to his satisfaction, or
  - (b) where—
    - (i) the claim for salvage exceeds £5,000, and
    - (ii) any question is raised as to the sufficiency of the security, to the satisfaction of the court.
- (4) Any security given for salvage under this section to an amount exceeding £5,000 may be enforced by the court in the same manner as if bail had been given in that court.
- (5) In this section “the court” means the High Court or, in Scotland, the Court of Session.
- (6) As respects Scotland the reference in subsection (2) to process being issued for arrest shall be construed as a reference to warrant for arrestment being granted.

## **227 Sale of detained property by receiver.**

- (1) The receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases.
- (2) Those cases are—
  - (a) where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due;
  - (b) where the amount is disputed, but no appeal lies from the first court to which the dispute is referred, and payment is not made within twenty days after the decision of the first court;
  - (c) where the amount is disputed and an appeal lies from the decision of the first court to some other court, and within twenty days of the decision of the first

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court neither payment of the sum due is made nor proceedings are commenced for an appeal.

- (3) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of the expenses, fees and salvage and any excess shall be paid to the owners of the property or any other persons entitled to it.
- (4) In this section “detained property” means property detained by the receiver under section 226(2).

## **228 Apportionment of salvage under £5,000 by the receiver.**

- (1) Where—
  - (a) the aggregate amount of salvage payable in respect of salvage services rendered in United Kingdom waters has been finally determined and does not exceed £5,000; but
  - (b) a dispute arises as to the apportionment of the amount among several claimants,the person liable to pay the amount may apply to the receiver for leave to pay it to him.
- (2) The receiver shall, if he thinks fit, receive the amount and, if he does, he shall give the person paying it a certificate stating the amount paid and the services in respect of which it is paid.
- (3) A certificate under subsection (2) above shall be a full discharge and indemnity to the person by whom it was paid, and to his vessel, cargo, equipment and effects against the claims of all persons in respect of the services mentioned in the certificate.
- (4) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled to it, on such evidence, and in such shares and proportions, as he thinks fit.
- (5) Any decision by the receiver under subsection (4) above shall be made on the basis of the criteria contained in Article 13 of the Salvage Convention.
- (6) The receiver may retain any money which appears to him to be payable to any person who is absent.
- (7) A distribution made by a receiver under this section shall be final and conclusive as against all persons claiming to be entitled to any part of the amount distributed.

## **229 Apportionment of salvage by the court.**

- (1) Where—
  - (a) the aggregate amount of salvage payable in respect of salvage services rendered in United Kingdom waters has been finally determined and exceeds £5,000; or
  - (b) the aggregate amount of salvage payable in respect of salvage services rendered outside United Kingdom waters (of whatever amount) has been finally determined; but
  - (c) in either case, any delay or dispute arises as to the apportionment of the amount,the court may cause the amount of salvage to be apportioned among the persons entitled to it in such manner as it thinks just.

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- (2) Any decision of the court under this section shall be made on the basis of the criteria contained in Article 13 of the Salvage Convention.
- (3) For the purpose of making that apportionment, the court may—
  - (a) appoint any person to carry that apportionment into effect;
  - (b) compel any person in whose hands or under whose control the amount may be to distribute it or to pay it into court to be dealt with as the court directs; and
  - (c) issue such process as it thinks fit.
- (4) In this section “the court” means the High Court or, in Scotland, the Court of Session or a sheriff.

### **230 Salvage claims against the Crown and Crown rights of salvage and regulation thereof.**

- (1) Subject to section 29 of the <sup>M60</sup>Crown Proceedings Act 1947 (exclusion of proceedings in rem against the Crown) (so far as consistent with the Salvage Convention) the law relating to civil salvage, whether of life or property, except sections 225, 226 and 227, shall apply in relation to salvage services in assisting any of Her Majesty’s ships, or in saving life therefrom, or in saving any cargo or equipment belonging to Her Majesty in right of Her Government in the United Kingdom, in the same manner as if the ship, cargo or equipment belonged to a private person.
- (2) Where salvage services are rendered by or on behalf of Her Majesty, whether in right of Her Government in the United Kingdom or otherwise, Her Majesty shall be entitled to claim salvage in respect of those services to the same extent as any other salvor, and shall have the same rights and remedies in respect of those services as any other salvor.
- (3) No claim for salvage services by the commander or crew, or part of the crew, of any of Her Majesty’s ships shall be finally adjudicated upon without the consent of the Secretary of State to the prosecution of the claim.
- (4) Any document purporting to give the consent of the Secretary of State for the purposes of subsection (3) above and to be signed by an officer of the Ministry of Defence shall be evidence of that consent.
- (5) If a claim is prosecuted without the consent required by subsection (3) above the claim shall be dismissed with costs.
- (6) The reference in subsection (5) above to dismissal with costs shall in Scotland be construed as a reference to dismissal with the defender being found entitled to expenses.
- (7) “Her Majesty’s ships” has the same meaning in this section as in section 192.
- (8) In the application of this section to Northern Ireland, any reference to Her Majesty’s Government in the United Kingdom includes a reference to Her Government in Northern Ireland.

#### **Marginal Citations**

**M60** 1947 c. 44.



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## CHAPTER II

### WRECK

#### *Vessels in distress*

#### **231 Application of, and discharge of functions under, sections 232, 233 234 and 235.**

- (1) Sections 232, 233, 234 and 235 apply in circumstances where a United Kingdom or foreign vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters.
- (2) Where any function is conferred on the receiver by any of those sections that function may be discharged by any officer of customs and excise or any principal officer of the coastguard.
- (3) An officer discharging any such functions of the receiver shall, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by any provision of this Chapter, be treated as the agent of the receiver.
- (4) However, an officer discharging such functions shall not—
  - (a) be entitled to any fees payable to receivers, or
  - (b) be deprived of any right to salvage to which he would otherwise be entitled.
- (5) In any of those sections “shipwrecked persons”, in relation to a vessel, means persons belonging to the vessel.

#### **232 Duty of receiver where vessel in distress.**

- (1) In circumstances in which this section applies by virtue of section 231 in relation to any vessel the receiver shall, on being informed of the circumstances, discharge the following functions.
- (2) Subject to subsection [F69(3)] below, the receiver shall—
  - (a) forthwith proceed to the place where the vessel is;
  - (b) take command of all persons present; and
  - (c) assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the shipwrecked persons.
- (3) The receiver shall not interfere between the master and crew of the vessel in reference to the management of the vessel unless he is requested to do so by the master.
- (4) Subject to subsection (3) above, if any person intentionally disobeys the direction of the receiver he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

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#### **Textual Amendments**

**F69** Figure in s. 232(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 14**; S.I. 1997/1539, art. 2, **Sch.**

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### 233 Powers of receiver in case of vessel in distress.

- (1) [<sup>F70</sup>Subject to subsection (1A) below,] in circumstances where this section applies by virtue of section 231 in relation to any vessel the receiver may, for the purpose of the preservation of shipwrecked persons or of the vessel, cargo and equipment—
- (a) require such persons as he thinks necessary to assist him;
  - (b) require the master, or other person having the charge, of any vessel near at hand to give such assistance with his men, or vessel, as may be in his power; and
  - (c) require the use of any vehicle that may be near at hand.

[<sup>F71</sup>(1A) The receiver may not under subsection (1) above impose any requirement on the master or other person having the charge of a vessel owned or operated by the Royal National Lifeboat Institution.]

- (2) If any person refuses, without reasonable excuse, to comply with any requirement made under subsection (1) above he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

**F70** Words in s. 233(1) inserted (17.7.1997) by 1997 c. 28, s. 21(1); S.I. 1997/1539, art. 2, Sch.

**F71** S. 233(1A) inserted (17.7.1997) by 1997 c. 28, s. 21(2); S.I. 1997/1539, art. 2, Sch.

### 234 Power to pass over adjoining land.

- (1) In circumstances where this section applies by virtue of section 231 in relation to any vessel, all persons may, subject to subsections (3) and (4) below, for the purpose of—
- (a) rendering assistance to the vessel,
  - (b) saving the lives of shipwrecked persons, or
  - (c) saving the cargo or equipment of the vessel,
- pass and repass over any adjoining land without being subject to interruption by the owner or occupier and deposit on the land any cargo or other article recovered from the vessel.
- (2) The right of passage conferred by subsection (1) above is a right of passage with or without vehicles.
- (3) No right of passage is conferred by subsection (1) above where there is some public road equally convenient.
- (4) The rights conferred by subsection (1) above shall be so exercised as to do as little damage as possible.
- (5) Any damage sustained by an owner or occupier of land in consequence of the exercise of the rights conferred by this section shall be a charge on the vessel, cargo or articles in respect of or by which the damage is caused.
- (6) Any amount payable in respect of such damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is determined and recoverable under this Part.
- (7) If the owner or occupier of any land—

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- (a) impedes or hinders any person in the exercise of the rights conferred by this section;
- (b) impedes or hinders the deposit on the land of any cargo or other article recovered from the vessel; or
- (c) prevents or attempts to prevent any cargo or other article recovered from the vessel from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit;

he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

### **235 Liability for damage in case of plundered vessel.**

- (1) Where, in circumstances in which this section applies by virtue of section 231 in relation to any vessel, the vessel or any part of its cargo and equipment is plundered, damaged or destroyed by persons in circumstances in which those persons commit the offence of riot or, in Scotland, of mobbing and rioting, compensation shall be made to the owner of the vessel, cargo or equipment in accordance with the following provisions of this section.
- (2) Compensation under subsection (1) above in England and Wales shall be made by the compensation authority in the manner provided by the <sup>M61</sup>Riot (Damages) Act 1886 with respect to claims for compensation under that Act.
- (3) Where the vessel, cargo or equipment is not within a police area, the plundering, damage or destruction shall be treated for the purposes of subsection (2) above as taking place within the nearest police area.
- (4) Compensation under subsection (1) above in Scotland shall, as if entitlement to it arose under section 10 of the <sup>M62</sup>Riotous Assemblies (Scotland) Act 1822, be made by the council constituted under section 2 of the <sup>M63</sup>Local Government etc. (Scotland) Act 1994 within whose area, or nearest to whose area, the plundering, damage or destruction took place.
- (5) Compensation under subsection (1) above in Northern Ireland shall be made in pursuance of an application under the <sup>M64</sup>Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 as modified for the purposes of this section by the <sup>M65</sup>Transfer of Functions (Criminal Injuries to Vessels) (Northern Ireland) Order 1973.

#### **Marginal Citations**

- M61** 1886 c. 38.
- M62** 1822 c. 33.
- M63** 1994 c. 39.
- M64** 1971 c. 38 (N.I.).
- M65** S.R. 1973 No. 56 (N.I.).

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### *Dealing with wreck*

#### **236 Duties of finder etc of wreck.**

- (1) If any person finds or takes possession of any wreck in United Kingdom waters or finds or takes possession of any wreck outside United Kingdom waters and brings it within those waters he shall—
  - (a) if he is the owner of it, give notice to the receiver stating that he has found or taken possession of it and describing the marks by which it may be recognised;
  - (b) if he is not the owner of it, give notice to the receiver that he has found or taken possession of it and, as directed by the receiver, either hold it to the receiver's order or deliver it to the receiver.
- (2) If any person fails, without reasonable excuse, to comply with subsection (1) above he shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale and if he is not the owner of the wreck he shall also—
  - (a) forfeit any claim to salvage; and
  - (b) be liable to pay twice the value of the wreck—
    - (i) if it is claimed, to the owner of it; or
    - (ii) if it is unclaimed, to the person entitled to the wreck.
- (3) Any sum payable under subsection (2)(b) above to the owner of the wreck or to the persons entitled to the wreck may, in England and Wales and Northern Ireland, be recovered summarily as a civil debt.
- (4) In Scotland any sum payable under subsection (2)(b) above to the owner of the wreck or to the persons entitled to the wreck shall, for the purposes of the sum's recovery, be regarded as a debt due to the owner or, as the case may be, to those persons.

#### **237 Provisions as respects cargo, etc.**

- (1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters, any cargo or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.
- (2) If any person (whether the owner or not)—
  - (a) conceals or keeps possession of any such cargo or article, or
  - (b) refuses to deliver any such cargo or article to the receiver or to any person authorised by the receiver to require delivery,
 he shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) The receiver or any person authorised by him may take any such cargo or article (if necessary by force) from any person who refuses to deliver it.

#### **238 Receiver to give notice of wreck.**

- (1) Where the receiver takes possession of any wreck he shall, within 48 hours—
  - (a) make a record describing the wreck and any marks by which it is distinguished; and

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- (b) if in his opinion the value of the wreck exceeds £5,000, also transmit a similar description to the chief executive officer of Lloyd’s in London.
- (2) The record made by the receiver under subsection (1)(a) above shall be kept by him available for inspection by any person during reasonable hours without charge.
- (3) The notice sent under subsection (1)(b) above to the chief executive officer of Lloyd’s shall be posted by him in some conspicuous position for inspection.

### 239 Claims of owners to wreck.

- (1) The owner of any wreck in the possession of the receiver who establishes his claim to the wreck to the satisfaction of the receiver within one year from the time when the wreck came into the receiver’s possession shall, on paying the salvage, fees and expenses due, be entitled to have the wreck delivered or the proceeds of sale paid to him.
- (2) Where—
  - (a) a foreign ship has been wrecked on or near the coasts of the United Kingdom, or
  - (b) any articles belonging to or forming part of or of the cargo of a foreign ship which has been wrecked on or near the coasts of the United Kingdom are found on or near the coast or are brought into any port,the appropriate consular officer shall, in the absence of the owner and of the master or other agent of the owner, be treated as the agent of the owner for the purposes of the custody and disposal of the wreck and such articles.
- (3) In subsection (2) above “the appropriate consular officer”, in relation to a foreign ship, means the consul general of the country to which the ship or, as the case may be, the owners of the cargo may have belonged or any consular officer of that country authorised for the purpose by any treaty or arrangement with that country.

### 240 Immediate sale of wreck in certain cases.

- (1) The receiver may at any time sell any wreck in his possession if, in his opinion—
  - (a) it is under the value of £5,000;
  - (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or
  - (c) it is not of sufficient value to pay for storage.
- [<sup>F72</sup>(1A) The receiver may also sell any wreck in his possession before the end of the year referred to in section 239(1) if—
  - (a) in his opinion it is unlikely that any owner will establish a claim to the wreck within that year; and
  - (b) no statement has been given to the receiver under section 242(1) in relation to the place where the wreck was found.]
  - (2) [<sup>F73</sup>Subject to subsection (3) below,] the proceeds of sale shall, after defraying the expenses of the sale, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.
  - [<sup>F74</sup>(3) Where the receiver sells any wreck in a case falling within subsection (1A) above, he may make to the salvors an advance payment, of such amount as he thinks fit and

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subject to such conditions as he thinks fit, on account of any salvage that may become payable to them in accordance with section 243(5).]

#### Textual Amendments

**F72** S. 240(1A) inserted (17.7.1997) by 1997 c. 28, s. 22(2); S.I. 1997/1539, art. 2, Sch.

**F73** Words in s. 240(2) inserted (17.7.1997) by 1997 c. 28, s. 22(3); S.I. 1997/1539, art. 2, Sch.

**F74** S. 240(3) inserted (17.7.1997) by 1997 c. 28, s. 22(3); S.I. 1997/1539, art. 2, Sch.

### *Unclaimed wreck*

#### **241 Right of Crown to unclaimed wreck.**

Her Majesty and Her Royal successors are entitled to all unclaimed wreck found in the United Kingdom or in United Kingdom waters except in places where Her Majesty or any of Her Royal predecessors has granted the right to any other person.

#### **242 Notice of unclaimed wreck to be given to persons entitled.**

- (1) Any person who is entitled to unclaimed wreck found at any place in the United Kingdom or in United Kingdom waters shall give the receiver a statement containing the particulars of his entitlement and specifying an address to which notices may be sent.
- (2) Where a statement has been given to the receiver under subsection (1) above and the entitlement is proved to the satisfaction of the receiver, the receiver shall, on taking possession of any wreck found at a place to which the statement refers, within 48 hours, send to the specified address a description of the wreck and of any marks distinguishing it.

#### **243 Disposal of unclaimed wreck.**

- (1) Where, as respects any wreck found in the United Kingdom or in United Kingdom waters and in the possession of the receiver, no owner establishes a claim to it within one year after it came into the receiver's possession, the wreck shall be dealt with as follows.
- (2) If the wreck is claimed by any person who has delivered the statement required by section 242 and has proved to the satisfaction of the receiver his entitlement to receive unclaimed wreck found at the place where the wreck was found, the wreck shall, on payment of all expenses, costs, fees and salvage due in respect of it, be delivered to that person.
- (3) If the wreck is not claimed by any person in accordance with section 242, the receiver shall sell the wreck and pay the proceeds as directed by subsection (6) below, after making the deductions required by subsection (4) below and paying to the salvors the amount of salvage determined under subsection (5) below.
- (4) The amounts to be deducted by the receiver are—
  - (a) the expenses of the sale;
  - (b) any other expenses incurred by him; and
  - (c) his fees.

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- (5) The amount of salvage to be paid by the receiver to the salvors shall be such amount as the Secretary of State directs generally or in the particular case.
- (6) The proceeds of sale (after making those deductions and salvage payments) shall be paid by the receiver for the benefit of Her Majesty—
  - (a) if the wreck is claimed in right of the Duchy of Lancaster, to the receiver-general of the duchy or his deputies as part of its revenues;
  - (b) if the wreck is claimed in right of the Duchy of Cornwall, to the receiver-general of the duchy or his deputies as part of its revenues; and
  - (c) in any other case, into the Consolidated Fund.

#### **244 Effect of delivery of wreck etc under this Part.**

- (1) Delivery of wreck or payment of the proceeds of sale of wreck by the receiver under this Chapter shall discharge the receiver from all liability in respect of the delivery or payment.
- (2) Delivery of wreck by the receiver under this Chapter shall not, however, prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck or concerning the title to the soil of the place at which the wreck was found.

#### *Offences in respect of wreck*

#### **245 Taking wreck to foreign port.**

- (1) A person commits an offence if he takes into any foreign port and sells—
  - (a) any vessel stranded, derelict or otherwise in distress found on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters;
  - (b) any part of the cargo or equipment of, or anything belonging to, such a vessel; or
  - (c) any wreck found within those waters.
- (2) A person who is guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for a term not exceeding five years.

#### **246 Interfering with wrecked vessel or wreck.**

- (1) Subject to subsection (2) below, a person commits an offence if, without the permission of the master, he boards or attempts to board any vessel which is wrecked, stranded or in distress.
- (2) No offence is committed under subsection (1) above if the person is the receiver or a person lawfully acting as the receiver or if he acts by command of the receiver or a person so acting.
- (3) A person commits an offence if—
  - (a) he impedes or hinders or attempts to impede or hinder the saving of—
    - (i) any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water; or
    - (ii) any part of the cargo or equipment of any such vessel; or

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- (iii) any wreck;
  - (b) he conceals any wreck;
  - (c) he defaces or obliterates any mark on a vessel; or
  - (d) he wrongfully carries away or removes—
    - (i) any part of any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water;
    - (ii) any part of the cargo or equipment of any such vessel; or
    - (iii) any wreck.
- (4) The master of a vessel may forcibly repel any person committing or attempting to commit an offence under subsection (1) above.
- (5) A person who is guilty of an offence under this section shall be liable, on summary conviction—
- (a) in the case of an offence under subsection (1) above, to a fine not exceeding level 3 on the standard scale;
  - (b) in the case of an offence under subsection (3) above, to a fine not exceeding level 4 on the standard scale.

#### **247 Powers of entry etc.**

- (1) Where the receiver has reason to believe that—
- (a) any wreck is being concealed by or is in the possession of some person who is not the owner of it; or
  - (b) any wreck is being otherwise improperly dealt with,
- he may apply to a justice of the peace for a search warrant.
- (2) Where a search warrant is granted under subsection (1) above to the receiver, the receiver may, by virtue of the warrant—
- (a) enter any house, or other place (wherever situated) or any vessel; and
  - (b) search for, seize and detain any wreck found there.
- (3) If any seizure of wreck is made under this section in consequence of information given by any person to the receiver, the person giving the information shall be entitled, by way of salvage, to such sum, not exceeding £100, as the receiver may allow.

### **CHAPTER III**

#### **SUPPLEMENTAL**

##### *Administration*

#### **248 Functions of Secretary of State as to wreck.**

- (1) The Secretary of State shall have the general superintendence throughout the United Kingdom of all matters relating to wreck.
- (2) The Secretary of State may, with the consent of the Treasury, appoint one or more persons to be receiver of wreck for the purposes of this Part and a receiver so appointed shall discharge such functions as are assigned to him by the Secretary of State.



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- (3) Such public notice of appointments to the office of receiver shall be given as appears to the Secretary of State to be appropriate.

#### **249 Expenses and fees of receivers.**

- (1) There shall be paid to the receiver the expenses properly incurred by him in the discharge of his functions and also, in respect of such matters as may be prescribed by regulations made by the Secretary of State, such fees as may be so prescribed.
- (2) The receiver shall not be entitled to any other remuneration.
- (3) The receiver shall, in addition to all other rights and remedies for the recovery of those expenses and fees, have the same rights and remedies in respect of those expenses and fees as a salvor has in respect of salvage due to him.
- (4) Whenever any dispute arises as to the amount payable to the receiver in respect of expenses or fees, that dispute shall be determined by the Secretary of State whose decision shall be final.

#### *Coastguard services*

#### **250 Remuneration for services of coastguard.**

- (1) Subject to subsection (2) below, where services are rendered by any officers or men of the coastguard service in watching or protecting shipwrecked property the owner of the property shall pay in respect of those services remuneration according to a scale fixed by the Secretary of State.
- (2) No liability in respect of those services arises under subsection (1) above where—
  - (a) the services have been declined by the owner of the property or his agent at the time they were tendered; or
  - (b) salvage has been claimed and awarded for the services.
- (3) Remuneration under this section shall—
  - (a) be recoverable by the same means,
  - (b) be paid to the same persons, and
  - (c) be accounted for and applied in the same manner,as fees received by the receiver under section 249.
- (4) The scale fixed by the Secretary of State shall not exceed the scale by which remuneration to officers and men of the coastguard for extra duties in the ordinary service of the Commissioners of Customs and Excise is for the time being regulated.

#### *Release from customs and excise control*

#### **251 Release of goods from customs and excise control.**

- (1) The Commissioners of Customs and Excise shall, subject to taking security for the protection of the revenue in respect of the goods, permit all goods saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination.

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- (2) The Commissioners of Customs and Excise shall, subject to taking such security, permit all goods saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped.
- (3) In this section “goods” includes wares and merchandise.

### *Removal of wrecks*

## **252 Powers of harbour and conservancy authorities in relation to wrecks.**

- (1) Where any vessel is sunk, stranded or abandoned in, or in or near any approach to, any harbour or tidal water under the control of a harbour authority or conservancy authority in such a manner as, in the opinion of the authority, to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service in that harbour or water or approach thereto, that authority may exercise any of the following powers.
- (2) Those powers are—
  - (a) to take possession of, and raise, remove or destroy the whole or any part of the vessel and any other property to which the power extends;
  - (b) to light or buoy the vessel or part of the vessel and any such other property until it is raised, removed or destroyed; and
  - (c) subject to subsections (5) and (6) below, to sell, in such manner as the authority think fit, the vessel or part of the vessel so raised or removed and any other property recovered in the exercise of the powers conferred by paragraph (a) or (b) above;
  - (d) to reimburse themselves, out of the proceeds of the sale, for the expenses incurred by them in relation to the sale.
- (3) The other property to which the powers conferred by subsection (2) above extend is every article or thing or collection of things being or forming part of the equipment, cargo, stores or ballast of the vessel.
- (4) Any surplus of the proceeds of a sale under subsection (2)(c) above shall be held by the authority on trust for the persons entitled thereto.
- (5) Except in the case of property which is of a perishable nature or which would deteriorate in value by delay, no sale shall be made under subsection (2)(c) above until at least seven days notice of the intended sale has been given by advertisement in a local newspaper circulating in or near the area over which the authority have control.
- (6) At any time before any property is sold under subsection (2)(c) above, the owner of the property shall be entitled to have it delivered to him on payment of its fair market value.
- (7) The market value of property for the purposes of subsection (6) above shall be that agreed on between the authority and the owner or, failing agreement, that determined by a person appointed for the purpose by the Secretary of State.
- (8) The sum paid to the authority in respect of any property under subsection (6) above shall, for the purposes of this section, be treated as the proceeds of sale of the property.
- (9) Any proceeds of sale arising under subsection (2)(c) above from the sale of a vessel and any other property recovered from the vessel shall be treated as a common fund.

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- (10) This section is without prejudice to any other powers of a harbour authority or conservancy authority.

**Modifications etc. (not altering text)**

- C44 S. 252 applied (E.W.S.) (1.1.1998) by S.I. 1997/2949, **art. 14(1)**  
S. 252 modified (E.W.S.) (23.12.1999) by S.S.I. 1999/202, **arts. 24, 25(1)-(3)**  
S. 252 applied (with modifications) (E.W.S.) (14.7.2000) by S.S.I. 2000/233, **arts. 33, 34**

**253 Powers of lighthouse authorities in relation to wrecks.**

- (1) Where—

- (a) any vessel is sunk, stranded or abandoned in any fairway or on the seashore or on or near any rock, shoal or bank in the United Kingdom or any of the adjacent seas or islands; and  
(b) there is no harbour authority or conservancy authority having power to raise, remove or destroy the vessel;

the general lighthouse authority for the place in or near which the vessel is situated shall, if in the authority's opinion the vessel is, or is likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service, have the same powers in relation thereto as are conferred by section 252.

- (2) Where a general lighthouse authority have incurred expenses in the exercise of their powers under this section in relation to any vessel, then—

- (a) if the proceeds of any sale made under section 252 in connection with the exercise of those powers in relation to the vessel are insufficient to reimburse the authority for the full amount of those expenses, the authority may recover the amount of the deficiency from the relevant person, or  
(b) if there is no such sale, the authority may recover the full amount of those expenses from the relevant person.

- (3) Any expenses so incurred which are not recovered by the authority either out of the proceeds of any such sale or in accordance with subsection (2) above shall be paid out of the General Lighthouse Fund, but section 213 shall apply to those expenses as if they were expenses of the authority falling within subsection (1) of that section other than establishment expenses.

- (4) In this section “the relevant person”, in relation to any vessel, means the owner of the vessel at the time of the sinking, stranding or abandonment of the vessel.

**Modifications etc. (not altering text)**

- C45 S. 253 excluded (E.W.S.) (23.12.1999) by S.S.I. 1999/202, **art. 25(4)**  
S. 253 applied (with modifications) (E.W.S.) (14.7.2000) by S.S.I. 2000/233, **arts. 33, 34**

**254 Referral of questions as to powers between authorities.**

- (1) If any question arises between a harbour authority or conservancy authority and a general lighthouse authority as to their respective powers under sections 252 and 253 in relation to any place in or near an approach to a harbour or tidal water, that question

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shall, on the application of either authority, be referred to the Secretary of State for his decision.

(2) Any decision of the Secretary of State under this section shall be final.

### *Interpretation*

## 255 Interpretation.

(1) In this Part—

“receiver” means a receiver of wreck appointed under section 248;

“salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;

“the Salvage Convention” has the meaning given by section 224(1);

“salvor” means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of the ship;

“tidal water” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, and not being a harbour;

“vessel” includes any ship or boat, or any other description of vessel used in navigation; and

“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

(2) Fishing boats or fishing gear lost or abandoned at sea and either—

(a) found or taken possession of within United Kingdom waters; or

(b) found or taken possession of beyond those waters and brought within those waters;

shall be treated as wreck for the purposes of this Part.

(3) In the application of this Part in relation to Scotland, any reference to a justice of the peace includes a reference to a sheriff.

#### **Modifications etc. (not altering text)**

**C46** S. 255 extended (with modifications) to Jersey (22.8.1997) by S.I. 1997/1773, art. 2, Sch.

**C47** S. 255(1) extended (with modifications) to specified colonies (30.11.1997) by S.I. 1997/2586, art. 2, Schs. 1, 2

## **PART X**

### ENFORCEMENT OFFICERS AND POWERS

#### *Enforcement Officers*

## 256 Appointment of inspectors and surveyors.

(1) The Secretary of State may, if he thinks fit, appoint any person as an inspector to report to him—

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- (a) upon the nature and causes of any accident or damage which any ship has or is alleged to have sustained or caused;
  - (b) whether any requirements, restrictions or prohibitions imposed by or under this Act have been complied with or (as the case may be) contravened;
  - (c) whether the hull and machinery of a ship are sufficient and in good condition;
  - (d) what measures have been taken to prevent the escape of oil or mixtures containing oil.
- (2) The Secretary of State may, at such ports as he thinks fit, appoint persons to be surveyors of ships for the purposes of this Act and may remove any person so appointed.
- (3) A surveyor of ships may be appointed either as a ship surveyor or as an engineer surveyor or as both.
- (4) Surveyor of ships may be appointed either generally or for any particular case or purpose.
- (5) The Secretary of State may also appoint a surveyor general of ships for the United Kingdom and such other officers in connection with the survey of ships and other matters incidental thereto as he thinks fit.
- (6) The Secretary of State may appoint persons to be inspectors for the purposes of sections 261 to 266.
- (7) Every inspector appointed under [F75 subsection] (1) above shall be treated as appointed under subsection (6) above.
- (8) Every surveyor of ships shall be treated as a person appointed generally under subsection (1) above to report to the Secretary of State in every kind of case falling within paragraphs (b) and (d) of that subsection in relation to Chapter II of Part VI.
- (9) In this Act—
  - (a) “Departmental inspector” means an inspector appointed under subsection (1) above;
  - (b) “surveyor of ships” means a surveyor appointed under subsection (2) above;
  - (c) “Departmental officer” means any officer of the Secretary of State discharging functions of his for the purposes of this Act;and the reference to requirements, restrictions or prohibitions under this Act includes any such requirements, restrictions or prohibitions constituting the terms of any approval, licence, consent or exemption given in any document issued under this Act.

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#### Textual Amendments

**F75** Word in s. 256(7) substituted (17.7.1997) by 1997 c. 28, s. 29(1), Sch. 6 para. 15; S.I. 1997/1539, art. 2, Sch.

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#### Modifications etc. (not altering text)

**C48** S. 256(1) extended (1.1.1996) by 1995 c. 22, ss. 5(6), 9(4)

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VALID FROM 01/07/1999

### **[<sup>F76</sup>256A Scottish officers**

- (1) The Scottish Ministers may authorise any member of the staff of the Scottish Administration to exercise any of the powers under sections 125(3), 258 and 284(1) of an officer of, or a person appointed by, a Minister of the Crown for the purpose of enforcing, in Scotland or in the Scottish zone and in relation to fishing vessels, sections 49 and 125; and sections 258(5) and 284(4) and (5) shall apply in relation to a member of the staff of the Scottish Administration authorised under this section as they apply to such an officer or person.
- (2) In this section, “the Scottish zone” has the same meaning as in section 126(1) of the Scotland Act 1998.]

#### **Textual Amendments**

**F76** S. 256A inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 119**; S.I. 1998/3178, **art. 3**

### *Inspection etc powers*

#### **257 Powers to require production of ships documents.**

- (1) The powers conferred by this section are conferred in relation to United Kingdom ships and are available to any of the following officers, namely—
  - (a) any Departmental officer,
  - (b) any commissioned naval officer,
  - (c) any British consular officer,
  - (d) the Registrar General of Shipping and Seamen or any person discharging his functions,
  - (e) any chief officer of customs and excise,
  - (f) any superintendent,
 whenever the officer has reason to suspect that this Act or any law for the time being in force relating to merchant seamen or navigation is not complied with.
- (2) Those powers are—
  - (a) to require the owner, master, or any of the crew to produce any official log-books or other documents relating to the crew or any member of the crew in their possession or control;
  - (b) to require the master to produce a list of all persons on board his ship, and take copies of or extracts from the official log-books or other such documents;
  - (c) to muster the crew; and
  - (d) to require the master to appear and give any explanation concerning the ship or her crew or the official log-books or documents produced or required to be produced.
- (3) If any person, on being duly required by an officer under this section to produce a log-book or any document, fails without reasonable excuse to produce the log-book

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or document, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (4) If any person, on being duly required by any officer under this section—
- (a) to produce a log-book or document, refuses to allow the log-book or document to be inspected or copied;
  - (b) to muster the crew, impedes the muster; or
  - (c) to give any explanation, refuses or neglects to give the explanation or knowingly misleads or deceives the officer;

he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## 258 Powers to inspect ships and their equipment, etc.

- (1) <sup>F77</sup>For the purposes of seeing that the provisions of this Act other than sections 131 to 141 and sections 143 to 151 and the provisions of regulations and rules made under this Act (other than those sections) are complied with or] that the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations are duly complied with, the following persons, namely—
- (a) a surveyor of ships,
  - (b) a superintendent,
  - (c) any person appointed by the Secretary of State, either generally or in a particular case, to exercise powers under this section,

may at all reasonable times go on board a ship [<sup>F78</sup>in the United Kingdom or in United Kingdom waters] and inspect the ship and its equipment or any part thereof, any articles on board and any document carried in the ship in pursuance of this Act <sup>F79</sup>. . . or in pursuance of regulations or rules under this Act <sup>F79</sup>. . .

- <sup>F80</sup>(1A) The powers conferred by subsection (1) above are not exercisable in relation to a qualifying foreign ship while the ship is exercising—
- (a) the right of innocent passage, or
  - (b) the right of transit passage through straits used for international navigation.]
- (2) The powers conferred by subsection (1) above are, if the ship is a United Kingdom ship, also exercisable outside [<sup>F81</sup>United Kingdom waters] and may be so exercised by a proper officer as well as the persons mentioned in that subsection.
- (3) A person exercising powers under this section shall not unnecessarily detain or delay a ship but may, if he considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.
- (4) Where any such person as is mentioned in subsection (1) above has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a United Kingdom ship which, if provided on the ship, would not be in accordance with safety regulations containing requirements as to provisions and water to be provided on ships he may enter the premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with the regulations.
- (5) If any person obstructs a person in the exercise of his powers under this section, or fails to comply with a requirement made under subsection (3) above, he shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

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### Textual Amendments

- F77** Words in s. 258(1) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 4(2)(a)**; S.I. 1997/1082, art. 2, **Sch.**
- F78** Words in s. 258(1) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 4(2)(b)**; S.I. 1997/1082, art. 2, **Sch.**
- F79** Words in s. 258(1) omitted (23.3.1997) by virtue of 1997 c. 28, s. 9, **Sch. 1 para. 4(2)(c)**; S.I. 1997/1082, art. 2, **Sch.** and repealed (17.7.1997) by 1997 c. 28, s. 29(2), **Sch. 7 Pt. I**; S.I. 1997/1539, art. 2, **Sch.**
- F80** S. 258(1A) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 4(3)**; S.I. 1997/1082, art. 2, **Sch.**
- F81** Words in s. 258(2) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 4(4)**; S.I. 1997/1082, art. 2, **Sch.**

## 259 Powers of inspectors in relation to premises and ships.

- (1) The powers conferred by this section are conferred in relation to—
- (a) any premises in the United Kingdom; or
  - (b) any United Kingdom ship wherever it may be and any other ship which is present in the United Kingdom or in United Kingdom waters;
- and are available to any Departmental inspector, or any inspector appointed under section 256(6), for the purpose of performing his functions.
- (2) Such an inspector—
- (a) may at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time)—
    - (i) enter any premises , or
    - (ii) board any ship,
 if he has reason to believe that it is necessary for him to do so;
  - (b) may, on entering any premises by virtue of paragraph (a) above or on boarding a ship by virtue of that paragraph, take with him any other person authorised for the purpose by the Secretary of State and any equipment or materials he requires;
  - (c) may make such examination and investigation as he considers necessary;
  - (d) may give a direction requiring that the premises or ship or any part of the premises or ship or any thing in the premises or ship or such a part shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c) above;
  - (e) may take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c) above;
  - (f) may take samples of any articles or substances found in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;
  - (g) may, in the case of any article or substance which he finds in the premises or ship and which appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that is in the circumstances necessary);



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- (h) may, in the case of any such article or substance as is mentioned in paragraph (g) above, take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
    - (i) to examine it and do to it anything which he has power to do under that paragraph,
    - (ii) to ensure that it is not tampered with before his examination of it is completed,
    - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Act or any instrument made under it;
  - (i) may require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c) above—
    - (i) to attend at a place and time specified by the inspector, and
    - (ii) to answer (in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the inspector thinks fit to ask, and
    - (iii) to sign a declaration of the truth of his answers;
  - (j) may require the production of, and inspect and take copies of or of any entry in,—
    - (i) any books or documents which by virtue of any provision of this Act are required to be kept; and
    - (ii) any other books or documents which he considers it necessary for him to see for the purposes of any examination or investigation under paragraph (c) above;
  - (k) may require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this subsection.
- (3) The powers conferred by subsection (2) above to require the production of any document and copy it include, in relation to oil record books required to be carried under section 142, power to require the master to certify the copy as a true copy.
- (4) The powers conferred by subsection (2) above to inspect premises shall also be exercisable, for the purpose of Chapter II of Part VI, in relation to any apparatus used for transferring oil.
- (5) The powers of entry and inspection of premises conferred by subsections (2) and (4) above for the purposes of Chapter II of Part VI shall not be exercisable by Departmental inspectors (or surveyors of ships in their capacity as Departmental inspectors) in relation to places on land in Northern Ireland and apparatus located in Northern Ireland otherwise than on board ships; but persons appointed by the Department of the Environment for Northern Ireland shall have the like powers; and those subsections shall have effect accordingly in relation to persons so appointed.
- (6) The powers conferred by subsection (2)(a), (c) and (j) above shall also be exercisable, in relation to a ship in a harbour in the United Kingdom, by the harbour master or other persons appointed by the Secretary of State for the purpose, for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or a mixture containing oil from the ship into the harbour.

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- (7) It is hereby declared that nothing in the preceding provisions of this section authorises a person unnecessarily to prevent a ship from proceeding on a voyage.
- (8) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with the taking of samples under subsection (2)(f) above and subsection (11) below and provision as to the way in which samples that have been so taken are to be dealt with.
- (9) Where an inspector proposes to exercise the power conferred by subsection (2)(g) above in the case of an article or substance found in any premises or ship, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of that person.
- (10) Before exercising the power conferred by subsection (2)(g) above, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.
- (11) Where under the power conferred by subsection (2)(h) above an inspector takes possession of any article or substance found in any premises or ship, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.
- (12) No answer given by a person in pursuance of a requirement imposed under subsection (2)(i) above shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings in pursuance of subsection (1)(c) of section 260 in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in the said subsection (2)(i) shall be entitled, on the occasion on which the questions there mentioned are asked, to make representations to the inspector on behalf of the person who nominated him.

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**Modifications etc. (not altering text)**

**C49** S. 259 modified (1.1.1996) by 1995 c. 22, ss. 5(6), 9(4)

**260 Provisions supplementary to section 259.**

- (1) A person who—
  - (a) intentionally obstructs an inspector in the exercise of any power available to him under section 259; or
  - (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of section 259 or prevents another person from complying with such a requirement; or
  - (c) without prejudice to the generality of paragraph (b) above, makes a statement or signs a declaration which he knows is false, or recklessly makes a

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- statement or signs a declaration which is false, in purported compliance with a requirement made in pursuance of subsection (2)(i) of section 259, shall be liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine or both.
- (2) Nothing in section 259 shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, as the case may be, on an order for the production of documents in an action in the Court of Session.
- (3) A person who complies with a requirement imposed on him in pursuance of paragraph (i)(i) or (k) of subsection (2) of section 259 shall be entitled to recover from the person who imposed the requirement such sums in respect of the expenses incurred in complying with the requirement as are prescribed by regulations made by the Secretary of State.
- (4) Regulations under subsection (3) above may make different provision for different circumstances.
- (5) Any payments under subsection (3) above shall be made out of money provided by Parliament.

#### *Improvement notices and prohibition notices*

### **261 Improvement notices.**

- (1) If an inspector appointed under section 256(6) is of the opinion that a person—
- (a) is contravening one or more of the relevant statutory provisions, or
  - (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,
- he may serve on that person a notice under this section, (referred to in the following sections of this Part as an improvement notice).
- (2) An improvement notice shall—
- (a) state that the inspector is of the said opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion, and
  - (b) require the person on whom the notice is served to remedy the contravention in question or (as the case may be) the matters occasioning it within such period as may be specified in the notice.
- (3) The period specified in pursuance of subsection (2)(b) above shall not expire before the end of the period within which a notice can be given under section 264 requiring questions relating to the improvement notice to be referred to arbitration.
- (4) In this and the following sections of this Part “the relevant statutory provisions” means—
- (a) sections 43, 44, 46 to 55, 85, 86, 88 (and Schedule 2), 89 (and Schedule 3), 90, 99, 109, 115, 116, 121 to 126, 128, 129, 130 [<sup>F82</sup>130A], 131 to 151 and 272; and

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- (b) the provisions of any instrument of a legislative character having effect under any of those provisions.

#### Textual Amendments

**F82** Figure in s. 261(4)(a) substituted (19.3.1997) by 1997 c. 28, ss. 29(1), 31(4), **Sch. 6 para. 16**

### 262 Prohibition notices.

- (1) If, as regards any relevant activities which are being or are likely to be carried on on board any ship by or under the control of any person, an inspector appointed under section 256(6) is of the opinion that, as so carried on or as likely to be so carried on, the activities involve or (as the case may be) will involve the risk of—
- (a) serious personal injury to any person (whether on board the ship or not), or
  - (b) serious pollution of any navigable waters,
- the inspector may serve on the first-mentioned person a notice under this section (referred to in the following sections of this Part as a “prohibition notice”).
- (2) In subsection (1) above “relevant activities” means activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are carried on as mentioned in that subsection, apply.
- (3) A prohibition notice shall—
- (a) state that the inspector is of the said opinion;
  - (b) specify the matters which in his opinion give or (as the case may be) will give rise to the said risk;
  - (c) where in his opinion any of those matters involve or (as the case may be) will involve a contravention of any of the relevant statutory provisions state that he is of that opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and
  - (d) direct—
    - (i) that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served, or
    - (ii) that the ship shall not go to sea,
 (or both of those things) unless the matters specified in the notice in pursuance of paragraph (b) above, and any associated contraventions of any provision so specified in pursuance of paragraph (c) above, have been remedied.
- (4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) above shall take effect—
- (a) at the end of a period specified in the notice, or
  - (b) if the direction is given in pursuance of subsection (3)(d)(ii) above or the notice so declares, immediately.

### 263 Provisions supplementary to sections 261 and 262.

- (1) An improvement notice or a prohibition notice may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions may be framed so as to afford the person on whom

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the notice is served a choice between different ways of remedying the contravention or matter.

- (2) An improvement notice or a prohibition notice shall not direct any measures to be taken to remedy the contravention of any of the relevant statutory provisions that are more onerous than those necessary to secure compliance with that provision.
- (3) Where an improvement notice or a prohibition notice that is not to take immediate effect has been served—
  - (a) the notice may be withdrawn by an inspector at any time before the end of the period specified in it in pursuance of section 261(2)(b) or (as the case may be) section 262(4); and
  - (b) the period so specified may be extended or further extended by an inspector at any time when a reference to arbitration in respect of the notice is not pending under section 264.

**Modifications etc. (not altering text)**

**C50** S. 263 modified (16.2.2001) by S.I. 2001/152, reg. 11(2)

## **264 References of notices to arbitration.**

- (1) Any question—
  - (a) as to whether any of the reasons or matters specified in an improvement notice or a prohibition notice in pursuance of section 261(2)(a) or 262(3)(b) or (c) in connection with any opinion formed by the inspector constituted a valid basis for that opinion, or
  - (b) as to whether any directions included in the notice in pursuance of section 263(1) were reasonable,shall, if the person on whom the notice was served so requires by a notice given to the inspector within 21 days from the service of the notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.
- (2) Where a notice is given by a person in accordance with subsection (1) above, then—
  - (a) in the case of an improvement notice, the giving of the notice shall have the effect of suspending the operation of the improvement notice until the decision of the arbitrator is published to the parties or the reference is abandoned by that person;
  - (b) in the case of a prohibition notice, the giving of the notice shall have the effect of so suspending the operation of the prohibition notice if, but only if, on the application of that person the arbitrator so directs (and then only from the giving of the direction).
- (3) Where on a reference under this section the arbitrator decides as respects any reason, matter or direction to which the reference relates, that in all the circumstances—
  - (a) the reason or matter did not constitute a valid basis for the inspector's opinion, or
  - (b) the direction was unreasonable,

he shall either cancel the notice or affirm it with such modifications as he may in the circumstances think fit; and in any other case the arbitrator shall affirm the notice in its original form.

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- (4) Where any reference under this section involves the consideration by the arbitrator of the effects of any particular activities or state of affairs on the health or safety of any persons, he shall not on that reference make any decision such as is mentioned in subsection (3)(a) or (b) above except after—
- (a) in the case of an improvement notice, affording an opportunity of making oral representations to him with respect to those effects to a member of any such panel of representatives of maritime trade unions as may be appointed by the Secretary of State for the purposes of this subsection; or
  - (b) in the case of a prohibition notice, affording an opportunity of making such representations to him to either—
    - (i) a representative of a trade union representing persons whose interests it appears to him that the notice was designed to safeguard, or
    - (ii) a member of any such panel as is referred to in paragraph (a) above, as he thinks appropriate; and
  - (c) (in either case) considering any representations made to him in pursuance of paragraph (a) or (b) above.
- (5) A person shall not be qualified for appointment as an arbitrator under this section unless he is—
- (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or a person holding a certificate equivalent to any such certificate;
  - (b) a naval architect;
  - (c) a person falling within subsection (6); or
  - (d) a person with special experience of shipping matters, of the fishing industry, or of activities carried on in ports.
- (6) For the purposes of subsection (5)(c) a person falls within this subsection if—
- (a) he has a 10 year general qualification (within the meaning of section 71 of the <sup>M66</sup>Courts and Legal Services Act 1990);
  - (b) he is an advocate or solicitor in Scotland of at least 10 years' standing; or
  - (c) he is a member of the bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.
- (7) In connection with his functions under this section an arbitrator shall have the powers conferred on an inspector by section 259 other than subsections (3), (4) and (6).
- (8) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in subsection (1) above to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by the sheriff.

<sup>F83</sup>(9) .....

#### Textual Amendments

**F83** S. 264(9) repealed (31.1.1997) by 1996 c. 23, s. 107(2), Sch. 4 (with s. 81(2)); S.I. 1996/3146, art. 3 (with art. 4, Sch. 2)

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**Modifications etc. (not altering text)**

- C51** S. 264 modified (16.2.2001) by S.I. 2001/152, reg. 11(2)  
S. 264 applied (16.2.2001) by S.I. 2001/152, reg. 13(3)  
Ss. 264-266 applied (with modifications) (16.2.2001) by S.I. 2001/152, reg. 9(3)

**Marginal Citations**

- M66** 1990 c. 41.

**265 Compensation in connection with invalid prohibition notices.**

- (1) If on a reference under section 264 relating to a prohibition notice—
- (a) the arbitrator decides that any reason or matter did not constitute a valid basis for the inspector’s opinion, and
  - (b) it appears to him that there were no reasonable grounds for the inspector to form that opinion,
- the arbitrator may, subject to subsection (3) below, award the person on whom the notice was served such compensation in respect of any loss suffered by him in consequence of the service of the notice as the arbitrator thinks fit.
- (2) If on any such reference the arbitrator decides that any direction included in the notice was unreasonable, the arbitrator may, subject to subsection (3) below, award the person on whom the notice was served such compensation in respect of any loss suffered by him in consequence of the direction as the arbitrator thinks fit.
- (3) An arbitrator shall not award any compensation under subsection (1) or (2) above in the case of any prohibition notice unless—
- (a) it appears to him that the direction given in pursuance of section 262(3)(d) contained any such requirement as is mentioned in subparagraph (ii) of that provision; or
  - (b) it appears to him that—
    - (i) the inspector was of the opinion that there would be such a risk of injury or pollution as is referred to in the notice if the ship went to sea, and
    - (ii) the effect of the direction given in pursuance of section 262(3)(d) was to prohibit the departure of the ship unless the matters, or (as the case may be) the matters and contraventions, referred to in the direction were remedied.
- (4) Any compensation awarded under this section shall be payable by the Secretary of State.
- (5) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter.

**Modifications etc. (not altering text)**

- C52** Ss. 264-266 applied (with modifications) (16.2.2001) by S.I. 2001/152, reg. 9(3)

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## 266 Offences.

- (1) Any person who contravenes any requirement imposed by an improvement notice shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (2) Any person who contravenes any prohibition imposed by a prohibition notice shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (3) It shall be a defence for a person charged with an offence under this section to prove that he exercised all due diligence to avoid a contravention of the requirement or prohibition in question.
- (4) In this section any reference to an improvement notice or a prohibition notice includes a reference to any such notice as modified under section 264(3).

### Modifications etc. (not altering text)

- C53** S. 266 modified (16.2.2001) by [S.I. 2001/152, reg. 11\(2\)](#)  
 Ss. 264-266 applied (with modifications) (16.2.2001) by [S.I. 2001/152, reg. 9\(3\)](#)

## PART XI

### ACCIDENT INVESTIGATIONS AND INQUIRIES

### Modifications etc. (not altering text)

- C54** Pt. XI applied (with modifications) (1.9.2002) by [S.I. 2002/1587, reg. 17\(1\)](#)

### *Marine accident investigations*

## 267 Investigation of marine accidents.

- (1) The Secretary of State shall, for the purpose of the investigation of any such accidents as are mentioned in subsection (2) below, appoint such number of persons as he may determine to be inspectors of marine accidents, and he shall appoint one of those persons to be Chief Inspector of Marine Accidents.
- (2) The accidents referred to in subsection (1) above are—
  - (a) any accident involving a ship or ship's boat where, at the time of the accident—
    - (i) the ship is a United Kingdom ship, or
    - (ii) the ship, or (in the case of an accident involving a ship's boat) that boat, is within United Kingdom waters, and
  - (b) such other accidents involving ships or ships' boats as the Secretary of State may determine.



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- (3) The Secretary of State may by regulations make such provision as he considers appropriate with respect to the investigation of any such accidents as are mentioned in subsection (2) above.
- (4) Any such regulations may, in particular, make provision—
- (a) with respect to the definition of “accident” for the purposes of this section and the regulations;
  - (b) imposing requirements as to the reporting of accidents;
  - (c) prohibiting, pending investigation, access to or interference with any ship or ship’s boat involved in an accident;
  - (d) authorising any person, so far as may be necessary for the purpose of determining whether an investigation should be carried out, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such ship or boat or any other ship or ship’s boat;
  - (e) specifying, with respect to the investigation of accidents, the functions of the Chief Inspector of Marine Accidents (which may include the function of determining whether, and if so by whom, particular accidents should be investigated), the functions of other inspectors of marine accidents, and the manner in which any such functions are to be discharged;
  - (f) for the appointment by the Chief Inspector of Marine Accidents, in such circumstances as may be specified in the regulations, of persons to carry out investigations under this section who are not inspectors of marine accidents;
  - (g) for the appointment by any Minister of the Crown of persons to review any findings or conclusions of a person carrying out an investigation under this section;
  - (h) for the procedure to be followed in connection with investigations or reviews under this section;
  - (i) for conferring on persons discharging functions under the regulations who are not inspectors of marine accidents all or any of the powers conferred on an inspector by section 259;
  - (j) for the submission to the Secretary of State, and the publication by him, of reports of investigations or reviews under this section;
  - (k) for the publication by the Chief Inspector of Marine Accidents of reports and other information relating to accidents.
- (5) Regulations under this section may provide for any provisions of the regulations to apply to any specified class or description of incidents or situations which involve, or occur on board, ships or ships’ boats but are not accidents for the purposes of the regulations, being a class or description framed by reference to any of the following, namely—
- (a) the loss or destruction of or serious damage to any ship or structure,
  - (b) the death of or serious injury to any person, or
  - (c) environmental damage,
- whether actually occurring or not, and (subject to such modifications as may be specified in the regulations) for those provisions to apply in relation to any such incidents or situations as they apply in relation to accidents.
- (6) Regulations under this section may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by a fine.

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- (7) The Chief Inspector of Marine Accidents, or (as the case may be) inspectors of marine accidents generally, shall discharge such functions in addition to those conferred by or under the preceding provisions of this section as the Secretary of State may determine.
- (8) Any inspector of marine accidents shall, for the purpose of discharging any functions conferred on him by or under this section, have the powers conferred on an inspector by section 259.
- (9) Nothing in this section shall limit the powers of any authority under sections 252, 253 and 254.
- (10) In this section—
  - (a) references to an accident involving a ship or ship’s boat include references to an accident occurring on board a ship or ship’s boat (and any reference to a ship or ship’s boat involved in an accident shall be construed accordingly); and
  - (b) “ship’s boat” includes a life-raft.

**Modifications etc. (not altering text)**

**C55** S. 267 applied (with modifications) (1.9.2002) by S.I. 2002/1587, reg. 17(2), (with reg. 3)

**268 Formal investigation into marine accidents.**

- (1) Where any accident has occurred, the Secretary of State may (whether or not an investigation into it has been carried out under section 267) cause a formal investigation into the accident to be held—
  - (a) if in England, Wales or Northern Ireland, by a wreck commissioner, and
  - (b) if in Scotland, by the sheriff;
 and in this section “accident” means any accident to which regulations under that section apply or any incident or situation to which any such regulations apply by virtue of subsection (5) of that section.
- (2) A wreck commissioner or sheriff holding a formal investigation shall conduct it in accordance with rules under section 270(1); and those rules shall require the assistance of one or more assessors and, if any question as to the cancellation or suspension of an officer’s certificate is likely, the assistance of not less than two assessors.
- (3) Subsections (1), (3) and (4) of section 97 of the <sup>M67</sup>Magistrates’ Courts Act 1980 (which provide for the attendance of witnesses and the production of evidence) shall apply in relation to a formal investigation held by a wreck commissioner as if the wreck commissioner were a magistrates’ court and the investigation a complaint; and the wreck commissioner shall have power to administer oaths for the purposes of the investigation.
- (4) Where a formal investigation is held in Scotland the sheriff shall, subject to any rules made under section 270(1), dispose of it as a summary application, and, subject to section 269, his decision on the investigation shall be final.
- (5) If as a result of the investigation the wreck commissioner or sheriff is satisfied, with respect to any officer, of any of the matters mentioned in paragraphs (a) to (c) of section 61(1) and, if it is a matter mentioned in paragraph (a) or (b) of that section, is further satisfied that it caused or contributed to the accident, he may cancel or suspend any certificate issued to the officer under section 47 or censure him; and if he cancels or

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suspends the certificate the officer shall deliver it forthwith to him or to the Secretary of State.

- (6) If a person fails to deliver a certificate as required under subsection (5) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Where a certificate has been cancelled or suspended under this section, the Secretary of State, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.
- (8) The wreck commissioner or sheriff may make such awards as he thinks just with regard to the costs (or, as the case may be, expenses) of the investigation and of any parties at the investigation, and with regard to the parties by whom those costs or expenses are to be paid; and any such award of the wreck commissioner may, on the application of any party named in it, be made an order of the High Court.
- (9) Any costs or expenses directed by an award to be paid shall be taxable—
  - (a) in the High Court, or
  - (b) where the investigation was held in Scotland, by the auditor of the sheriff court in which it was held and in accordance with the table of fees regulating the taxation of solicitors' accounts.
- (10) The wreck commissioner or sheriff shall make a report on the investigation to the Secretary of State.
- (11) In its application to Northern Ireland this section shall have effect as if in subsection (3) above for the references to subsections (1), (3) and (4) of section 97 of the <sup>M68</sup>Magistrates' Courts Act 1980 there were substituted references to paragraphs (1) and (3) of Article 118 and paragraph (1) of Article 120 of the <sup>M69</sup>Magistrates' Courts (Northern Ireland) Order 1981.

**Modifications etc. (not altering text)**

**C56** S. 268 applied (with modifications) (1.9.2002) by S.I. 2002/1587, reg. 17(3), (with reg. 3)

**Marginal Citations**

**M67** 1980 c. 43.

**M68** 1980 c. 43.

**M69** S.I. 1981/1675 (NI 26)

**269 Re-hearing of and appeal from investigations.**

- (1) Where a formal investigation has been held under section 268 the Secretary of State may order the whole or part of the case to be re-heard, and shall do so—
  - (a) if new and important evidence which could not be produced at the investigation has been discovered; or
  - (b) if there appear to the Secretary of State to be other grounds for suspecting that a miscarriage of justice may have occurred.
- (2) An order under subsection (1) above may provide for the re-hearing to be as follows—

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- (a) if the investigation was held in England, Wales or Northern Ireland, by a wreck commissioner or by the High Court;
  - (b) if it was held in Scotland, by the sheriff or by the Court of Session.
- (3) Any re-hearing under this section which is not held by the High Court or the Court of Session shall be conducted in accordance with rules made under section 270(1); and section 268 shall apply in relation to a re-hearing of an investigation by a wreck commissioner or sheriff as it applies in relation to the holding of an investigation.
- (4) Where the wreck commissioner or sheriff holding the investigation has decided to cancel or suspend the certificate of any person or has found any person at fault, then, if no application for an order under subsection (1) above has been made or such an application has been refused, that person or any other person who, having an interest in the investigation, has appeared at the hearing and is affected by the decision or finding, may appeal—
- (a) to the High Court if the investigation was held in England, Wales or Northern Ireland;
  - (b) to the Court of Session if it was held in Scotland.
- (5) Section 268(7) applies for the purposes of this section as it applies for the purposes of that section.

## **270 Rules as to investigations and appeals.**

- (1) The Secretary of State may make rules for the conduct of formal investigations under section 268 and for the conduct of any re-hearing under section 269 which is not held by the High Court or the Court of Session.
- (2) Without prejudice to the generality of subsection (1) above, rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.
- (3) Rules of court made for the purpose of re-hearings under section 269 which are held by the High Court, or of appeals to the High Court, may require the court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a re-hearing or hear such an appeal with the assistance of one or more assessors.

### *Inquiries into and reports on deaths and injuries*

## **271 Inquiries into deaths of crew members and others.**

- (1) Subject to subsection (6) below, where—
- (a) any person dies in a United Kingdom ship or in a boat or life-raft from such a ship, or
  - (b) the master of or a seaman employed in such a ship dies in a country outside the United Kingdom,
- an inquiry into the cause of the death shall be held by a superintendent or proper officer at the next port where the ship calls after the death and where there is a superintendent or proper officer, or at such other place as the Secretary of State may direct.
- (2) Subject to subsection (6) below, where it appears to the Secretary of State that—

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- (a) in consequence of an injury sustained or a disease contracted by a person when he was the master of or a seaman employed in a United Kingdom ship, he ceased to be employed in the ship and subsequently died, and
  - (b) the death occurred in a country outside the United Kingdom during the period of one year beginning with the day on which he so ceased,
- the Secretary of State may arrange for an inquiry into the cause of the death to be held by a superintendent or proper officer.
- (3) Subject to subsection (6) below, where it appears to the Secretary of State that a person may—
- (a) have died in a United Kingdom ship or in a boat or life-raft from such a ship, or
  - (b) have been lost from such a ship, boat or life-raft and have died in consequence of being so lost,
- the Secretary of State may arrange for an inquiry to be held by a superintendent or proper officer into whether the person died as mentioned above and, if the superintendent or officer finds that he did, into the cause of the death.
- (4) The superintendent or proper officer holding the inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by section 259.
- (5) The person holding the inquiry shall make a report of his findings to the Secretary of State who shall make the report available—
- (a) if the person to whom the report relates was employed in the ship and a person was named as his next of kin in the crew agreement or list of the crew in which the name of the person to whom the report relates last appeared, to the person so named;
  - (b) in any case, to any person requesting it who appears to the Secretary of State to be interested.
- (6) No inquiry shall be held under this section where, in England, Wales or Northern Ireland, a coroner's inquest is to be held or, in Scotland, an inquiry is to be held under the <sup>M70</sup>Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

**Marginal Citations**

M70 1976 c. 14.

**272 Reports of and inquiries into injuries.**

- (1) Where the master or a member of the crew of a United Kingdom fishing vessel is injured during a voyage, an inquiry into the cause and nature of the injury may be held by a superintendent or proper officer.
- (2) The superintendent or proper officer holding an inquiry under this section shall, for the purposes of the inquiry, have the powers conferred on a Departmental inspector by section 259 and shall make a report of his findings to the Secretary of State.

**273 Transmission of particulars of certain deaths on ships.**

Where—

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- (a) an inquest is held into a death or a post mortem examination, or a preliminary investigation in Northern Ireland, is made of a dead body as a result of which the coroner is satisfied that an inquest is unnecessary; and
- (b) it appears to the coroner that the death in question is such as is mentioned in section 108(2) or in that subsection as extended (with or without amendments) by virtue of section 307,

it shall be the duty of the coroner to send to the Registrar General of Shipping and Seamen particulars in respect of the deceased of a kind prescribed by regulations made by the Secretary of State.

## PART XII

### LEGAL PROCEEDINGS

#### **Modifications etc. (not altering text)**

**C57** Pt. XII (Ss. 274-291) applied (1.1.1996) by 1995 c. 22, ss. 7(1), 9(4)

#### *Prosecution of offences*

#### **274 Time limit for summary offences.**

- (1) Subject to subsections (2) and (3) below, no person shall be convicted of an offence under this Act in summary proceedings unless—
  - (a) the proceedings were commenced within six months beginning with the date on which the offence was committed; or
  - (b) in a case where the accused happens during that period to be out of the United Kingdom, the proceedings were commenced within two months after he first happens to arrive within the United Kingdom and before the expiration of three years beginning with the date on which the offence was committed.
- (2) Nothing in subsection (1) above shall apply in relation to any indictable offence.
- (3) Subsection (1) above shall not prevent a conviction for an offence in summary proceedings begun before the expiration of three years beginning with the date on which the offence was committed and before—
  - (a) the expiration of the period of six months beginning with the day when evidence which the Secretary of State considers is sufficient to justify a prosecution for the offence came to his knowledge; or
  - (b) the expiration of two months beginning with the day when the accused was first present in the United Kingdom after the expiration of the period mentioned in paragraph (a) above if throughout that period the accused was absent from the United Kingdom.
- (4) For the purpose of subsection (3) above—
  - (a) a certificate of the Secretary of State stating that evidence came to his knowledge on a particular day shall be conclusive evidence of that fact; and
  - (b) a document purporting to be a certificate of the Secretary of State and to be signed on his behalf shall be presumed to be such a certificate unless the contrary is proved.

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(5) In the application of this section to Scotland—

- (a) in subsection (3)(a) above, for the words from “Secretary” to “knowledge” there shall be substituted the words “ Lord Advocate considers is sufficient to justify a prosecution for the offence came to his knowledge, or, where such evidence is reported to him by the Secretary of State, the expiration of the period of six months beginning with the day when it came to the knowledge of the Secretary of State ”;
- (b) in subsection (4)(a) and (b) above, for the words “Secretary of State” there shall be substituted the words “ Lord Advocate or the Secretary of State, as the case may be, ”.

**275 Time limit for summary orders.**

No order for the payment of money shall be made under this Act in proceedings before a magistrates’ court unless—

- (a) the proceedings were commenced within six months beginning with the date on which the matter of complaint arose; or
- (b) in a case where both or either of the parties to the proceedings happen during that period to be out of the United Kingdom, the proceedings were commenced within six months after they both first happen to arrive, or to be at one time, within the United Kingdom.

**276 Summary offences: Scotland.**

In Scotland all prosecutions in respect of offences under this Act in respect of which the maximum penalty which may be imposed does not exceed imprisonment for a period of three months or a fine of level 4 on the standard scale or both may be tried in a summary manner before the district court.

**277 Offences by officers of bodies corporate.**

- (1) Where a body corporate is guilty of an offence under this Act or any instrument made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in such a capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

**Modifications etc. (not altering text)**

- C58** S. 277 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 277 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**  
s. 277 applied (20.1.1998) by S.I. 1997/3022, **reg. 7**

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## [<sup>F84</sup>277A Accessories and abettors

Any person who-knowingly or wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Act shall be liable to be dealt with, tried and punished as a principal offender.]

### Textual Amendments

**F84** S. 277A inserted (Jersey) (1.12.1997) by S.I. 1997/2598, art. 3 and (Guernsey) (11.3.1998) by S.I. 1998/260, art. 3

## 278 Offences by partners, etc. in Scotland.

Where, in Scotland, a partnership or unincorporated association (other than a partnership) is guilty of an offence under this Act or any instrument made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership or, as the case may be, a person concerned in the management or control of the association, he as well as the partnership or association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### Modifications etc. (not altering text)

**C59** S. 277 applied (20.1.1998) by S.I. 1997/3022, reg. 7

## *Jurisdiction*

## 279 Jurisdiction in relation to offences.

- (1) For the purpose of conferring jurisdiction, any offence under this Act shall be deemed to have been committed in any place in the United Kingdom where the offender may for the time being be.
- (2) For the same purpose, any matter of complaint under this Act shall be deemed to have arisen in any place in the United Kingdom where the person complained against may for the time being be.
- (3) The jurisdiction under subsections (1) and (2) above shall be in addition to and not in derogation of any jurisdiction or power of a court under any other enactment.

### Modifications etc. (not altering text)

**C60** S. 279 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1 s. 179 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1

## 280 Jurisdiction over ships lying off coasts.

- (1) Where the area within which a court in any part of the United Kingdom has jurisdiction is situated on the coast of any sea or abuts on or projects into any bay, channel, lake, river or other navigable water the court shall have jurisdiction as respects offences



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under this Act over any vessel being on, or lying or passing off, that coast or being in or near that bay, channel, lake, river or navigable water and over all persons on board that vessel or for the time being belonging to it.

- (2) The jurisdiction under subsection (1) above shall be in addition to and not in derogation of any jurisdiction or power of a court under the <sup>M71</sup>Magistrates' Courts Act 1980 or the <sup>M72</sup>Magistrates' Courts (Northern Ireland) Order 1981.

**Modifications etc. (not altering text)**

- C61** S. 280 applied (1.1.1996) by 1980 c. 43, s. 3A (as inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 55 (with s. 312(1)))  
S. 280 applied (1.1.1996) by 1981 c. 54, s. 46A (as inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 59(4) (with s. 312(1)))

**Marginal Citations**

- M71** 1980 c. 43.  
**M72** S.I. 1981/1675 (NI 26).

## 281 Jurisdiction in case of offences on board ship.

Where any person is charged with having committed any offence under this Act then—

- (a) if he is a British citizen and is charged with having committed it—  
(i) on board any United Kingdom ship on the high seas,  
(ii) in any foreign port or harbour, or  
(iii) on board any foreign ship to which he does not belong; or  
(b) if he is not a British citizen and is charged with having committed it on board any United Kingdom ship on the high seas;

and he is found within the jurisdiction of any court in any part of the United Kingdom which would have had jurisdiction in relation to the offence if it had been committed on board a United Kingdom ship within the limits of its ordinary jurisdiction to try the offence that court shall have jurisdiction to try the offence as if it had been so committed.

**Modifications etc. (not altering text)**

- C62** S. 281 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1  
S. 281 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1  
S. 281 applied (1.1.1996) by 1980 c. 43, s. 3A (as inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 55 (with s. 312(1)))  
S. 281 applied (1.1.1996) by 1981 c. 54, s. 46A (as inserted (1.1.1996) by 1995 c. 21 ss. 314(2), 316(2), Sch. 13 para. 55 (with s. 312(1)))

## 282 Offences committed by British seamen.

- (1) Any act in relation to property or person done in or at any place (ashore or afloat) outside the United Kingdom by any master or seaman who at the time is employed in a United Kingdom ship, which, if done in any part of the United Kingdom, would be an offence under the law of any part of the United Kingdom, shall—  
(a) be an offence under that law, and

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- (b) be treated for the purposes of jurisdiction and trial, as if it had been done within the jurisdiction of the Admiralty of England.
- (2) Subsection (1) above also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.
- (3) Subsections (1) and (2) above apply to omissions as they apply to acts.

**Modifications etc. (not altering text)**

- C63** S. 282 applied (1.1.1996) by 1980 c. 43, s. 3A (as inserted (1.1.1996) by 1995 C. 21, ss. 314(2), 316(2), Sch. 13 para. 55 (with s. 312(1)))  
 S. 282 applied (1.1.1996) by 1981 c. 54, s. 46A (as inserted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para. 59(4) (with s. 312(1)))

*Return of offenders*

**283 Return of offenders.**

- (1) The powers conferred on a British consular officer by subsection (2) below are exercisable in the event of any complaint being made to him—
  - (a) that any offence against property or persons has been committed at any place (ashore or afloat) outside the United Kingdom by any master or seaman who at the time when the offence was committed, or within three months before that time, was employed in a United Kingdom ship; or
  - (b) that any offence on the high seas has been committed by any master or seaman belonging to any United Kingdom ship.
- (2) Those powers are—
  - (a) to inquire into the case upon oath, and
  - (b) if the case so requires, to take any steps in his power for the purpose of placing the offender under the necessary restraint and sending him by United Kingdom ship as soon as practicable in safe custody to the United Kingdom for proceedings to be taken against him.
- (3) The consular officer may, subject to subsections (4) and (5) below, order the master of any United Kingdom ship bound for the United Kingdom to receive and carry the offender and the witnesses to the United Kingdom; and the officer shall endorse upon the agreement of the ship such particulars with respect to them as the Secretary of State requires.
- (4) A consular officer shall not exercise the power conferred by subsection (3) above unless no more convenient means of transport is available or it is available only at disproportionate expense.
- (5) No master of a ship may be required under subsection (3) above to receive more than one offender for every 100 tons of his ship's registered tonnage, or more than one witness for every 50 tons of his ship's registered tonnage.
- (6) The master of any ship to whose charge an offender has been committed under subsection (3) above shall, on his ship's arrival in the United Kingdom, give the offender into the custody of some police officer or constable.

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- (7) If any master of a ship, when required under subsection (3) above to receive and carry any offender or witness in his ship—
- (a) fails to do so; or
  - (b) in the case of an offender, fails to deliver him as required by subsection (6) above;
- he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) The expense of imprisoning any such offender and of carrying him and witnesses to the United Kingdom otherwise than in the ship to which they respectively belong shall be paid out of money provided by Parliament.
- (9) References in this section to carrying a person in a ship include affording him subsistence during the voyage.

#### *Detention of ship and distress on ship*

### **284 Enforcing detention of ship.**

- (1) Where under this Act a ship is to be or may be detained any of the following officers may detain the ship—
- (a) any commissioned naval or military officer,
  - [<sup>F85</sup>(b) any officer of a Minister of the Crown or Northern Ireland department who is authorised by the Secretary of State, either generally or in a particular case, to exercise powers under this section,]
  - (c) any officer of customs and excise, and
  - (d) any British consular officer.
- [<sup>F86</sup>(1A) A notice of detention may—
- (a) include a direction that the ship—
    - (i) must remain in a particular place, or
    - (ii) must be moved to a particular anchorage or berth, and
  - (b) if it includes such a direction, may specify circumstances relating to safety or the prevention of pollution in which the master may move his ship from that place, anchorage or berth.]
- [<sup>F87</sup>(2) If a ship as respects which notice of detention has been served on the master proceeds to sea, otherwise than in accordance with such a notice, before it is released by a competent authority, the master of the ship shall be guilty of an offence.
- <sup>F87</sup>(2A) If a ship as respects which notice of detention has been served on the master fails to comply with a direction given under subsection (1A)(a) above, the master of the ship shall be guilty of an offence.
- <sup>F87</sup>(2B) A person guilty of an offence under subsection (2) or (2A) above shall be liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to a fine.]
- (3) The owner of a ship, and any person who sends to sea a ship, as respects which an offence is committed under subsection (2) [<sup>F88</sup>or (2A)] above shall, if party or privy to the offence, also be guilty of an offence under that subsection and liable accordingly.

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- (4) Where a ship proceeding to sea in contravention of subsection (2) above [<sup>F89</sup>or failing to comply with a direction given under subsection (1A)(a) above]<sup>F90</sup> carries away without his consent] any of the following who is on board the ship in the execution of his duty, namely—
- (a) any officer authorised by subsection (1) above to detain the ship, or
  - (b) any surveyor of ships,
- the owner and master of the ship shall each—
- (i) be liable to pay all expenses of and incidental to the officer or surveyor being so [<sup>F91</sup>carried away]; and
  - (ii) be guilty of an offence.
- (5) A person guilty of an offence under subsection (4) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) Where under this Act a ship is to be detained an officer of customs and excise shall, and where under this Act a ship may be detained an officer of customs and excise may, refuse to clear the ship outwards or grant a transire to the ship.
- (7) When any provision of this Act provides that a ship may be detained until any document is produced to the proper officer of customs and excise the officer able to grant a clearance or transire of the ship is (unless the context otherwise requires) that officer.
- (8) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea, and references to sending or taking to sea shall be construed accordingly.

#### Textual Amendments

- F85** S. 284(1)(b) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(2)**; S.I. 1997/1082, art. 2, **Sch.**
- F86** S. 284(1A) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(3)**; S.I. 1997/1082, art. 2, **Sch.**
- F87** S. 284(2)-(2B) substituted for s. 284(2) (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(4)**; S.I. 1997/1082, **art. 2 Sch.**
- F88** Words in s. 284(3) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(5)**; S.I. 1997/1082, art. 2, **Sch.**
- F89** Words in s. 284(4) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(6)(a)**; S.I. 1997/1082, art. 2, **Sch. 1**
- F90** Words in s. 284(4) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(6)(b)**; S.I. 1997/1082, art. 2, **Sch. 1**
- F91** Words in s. 284(4)(i) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 5(6)(c)**; S.I. 1997/1082, art. 2, **Sch. 1**

#### Modifications etc. (not altering text)

- C64** S. 284 applied (with modifications) (1.1.1997) by S.I. 1996/3010, **reg. 15(3)(b)**
- S. 284 applied (with modifications) (27.3.1997) by S.I. 1997/529, **reg. 8**
- S. 284 applied (with modifications) (20.6.1997) by S.I. 1997/1320, **reg. 16(1)**
- S. 284 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- S. 284 applied (with modifications) (6.4.1998) by S.I. 1998/209, **reg. 9**
- S. 284 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**
- S. 284 applied (with modifications) (11.5.1998) by S.I. 1998/1012, **reg. 106**
- S. 284 applied (with modifications) (1.7.1998) by S.I. 1998/1419, **reg. 9**

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- S. 284 applied (with modifications) (12.11.1998) by S.I. 1998/2514, **reg. 92**
- S. 284 applied (with modifications) (12.11.1998) by S.I. 1998/2515, **reg. 74**
- S. 284 applied (with modifications) (1.12.1998) by S.I. 1998/2647, **reg. 8**
- S. 284 applied (with modifications) (16.12.1998) by S.I. 1998/2771, **reg. 9**
- S. 284 applied (with modifications) (10.2.1999) by S.I. 1999/17, **reg. 9**
- S. 284 applied (with modifications) (1.7.1999) by S.I. 1999/1644, **art. 17**
- S. 284 applied (with modifications) (5.8.1999) by S.I. 1999/1957, **reg. 25**
- S. 284 applied (with modifications) (5.8.1999) by S.I. 1999/2998, **reg. 18(2)**
- S. 284 applied (with modifications) (1.1.2000) by S.I. 1999/3210, **reg. 27(1)**
- S. 284 applied (with modifications) (1.4.2001) by S.I. 2001/9, **reg. 9**
- S. 284 applied (with modifications) (15.2.2002) by S.I. 2001/3444, **reg. 12**
- S. 284 applied (with modifications) (1.11.2001) by S.I. 2001/3209, **reg. 9(7)**
- S. 284 applied (with modifications) (23.11.2002) by S.I. 2002/2201, **reg. 11**
- S. 284 applied (with modifications) (1.9.2002) by S.I. 2002/ 2055, **reg. 15**
- C65** S. 284(1)-(6)(8) modified (23.10.2000) by S.I. 2000/2687, **reg. 10**
- C66** S. 284(1)-(3)(8) applied (with modifications) (29.10.1999) by S.I. 1999/2205, **reg. 16**
- C67** S. 284(1)-(5)(8) applied (with modifications) (31.12.1998) by S.I. 1998/2857, **reg. 12**  
S. 284(1)-(5)(8) applied (with modifications) (31.3.1998) by S.I. 1997/2962, **reg. 29**  
S. 284(1)-(5)(8) applied (with modifications) (25.10.1999) by S.I. 1999/2205, **reg. 16**  
S. 284(1)-(5)(8) applied (with modifications) (7.9.2002) by S.I. 2002/2125, **reg. 17**
- C68** S. 284(1)-(6)(8) applied (with modifications) (1.4.1997) by S.I. 1997/647, **reg. 12**  
S. 284(1)-(6)(8) applied (with modifications) (3.8.1998) by S.I. 1998/1609, **reg. 10**

## **285 Sums ordered to be paid leviable by distress on the ship.**

- (1) Where any court has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then, if the person directed to pay is the master or owner of the ship and the money directed to be paid is not paid in accordance with the order, the court who made the order may—
  - (a) except in Scotland, direct the amount remaining unpaid to be levied by distress,
  - (b) in Scotland, grant warrant authorising the arrestment and sale, of the ship and its equipment.
- (2) The remedy made available by this section is in addition to any other powers for compelling the payment of money ordered to be paid.

### *Special evidential provisions*

## **286 Depositions of persons abroad admissible.**

- (1) If the evidence of any person is required in the course of any legal proceeding before a judge or magistrate in relation to the subject matter of the proceeding and it is proved that that person cannot be found in the United Kingdom, any deposition that he may have previously made at a place outside the United Kingdom in relation to the same subject matter shall, subject to subsection (2) below, be admissible in evidence in those proceedings.
- (2) For a deposition to be admissible under subsection (1) above in any proceedings, the deposition—
  - (a) must have been taken on oath;

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- (b) must have been taken before a justice or magistrate in any colony or a British consular officer in any other place;
- (c) must be authenticated by the signature of the justice, magistrate or officer taking it; and
- (d) must, if the proceedings are criminal proceedings, have been taken in the presence of the accused;

and, in a case falling within paragraph (d) above, the deposition shall be certified by the justice, magistrate or officer taking it to have been taken in the presence of the accused.

- (3) No proof need be given of the signature or official character of the person appearing to have signed any such deposition and, in any criminal proceedings, a certificate stating that the deposition was taken in the presence of the accused shall, unless the contrary is proved, be evidence (and in Scotland sufficient evidence) of that fact.
- (4) This section also applies to proceedings before any person authorised by law or consent of the parties to receive evidence.
- (5) Nothing in this section affects the admissibility in evidence of depositions under any other enactment or the practice of any court.

#### **287 Admissibility in evidence and inspection of certain documents.**

- (1) The following documents shall be admissible in evidence and, when in the custody of the Registrar General of Shipping and Seamen, shall be open to public inspection—
  - (a) documents purporting to be submissions to or decisions by superintendents or proper officers under section 33;
  - (b) the official log book of any ship kept under section 77 and, without prejudice to section 288(2), any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;
  - (c) crew agreements, lists of crews made under section 78 and notices given under Part III of additions to or changes in crew agreements and lists of crews;
  - (d) returns or reports under section 108;
  - (e) documents transmitted to the Registrar General of Shipping and Seamen under section 298.
- (2) A certificate issued under section 47 shall be admissible in evidence.

#### **288 Admissibility of documents in evidence.**

- (1) Where a document is by this Act declared to be admissible in evidence the document shall, on its production from proper custody—
  - (a) be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence; and
  - (b) subject to all just exceptions, be evidence (or in Scotland sufficient evidence) of the matters stated in the document.
- (2) A copy of, or extract from, any document so made admissible in evidence shall, subject to subsection (3) below, also be admissible in evidence and evidence (and in Scotland sufficient evidence) of the matters stated in the document.
- (3) A copy of, or extract from, a document shall not be admissible by virtue of subsection (2) above unless—

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- (a) it is proved to be an examined copy or extract; or
  - (b) it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted;
- and that officer shall furnish the certified copy or extract to any person who applies for it at a reasonable time and pays such reasonable price as the Secretary of State determines.
- (4) A person shall, on payment of such reasonable price as the Secretary of State determines, be entitled to have a certified copy of any declaration or document a copy of which is made evidence by this Act.
  - (5) If any officer having duties of certification under subsection (3) above in relation to any document intentionally certifies any document as being a true copy or extract knowing that the copy or extract is not a true copy or extract he shall be liable—
    - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum;
    - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
  - (6) Subject to subsection (7) below, in Scotland, if any person forges the seal, stamp or signature of any document (or copy document) declared by this Act to be admissible in evidence or tenders in evidence any such document (or copy document) with, and knowing it to have, a false or counterfeit seal, stamp or signature he shall be liable—
    - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
    - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding seven years or to both.
  - (7) Subsection (6) above does not apply in respect of actings which constitute an offence under section 300(8).
  - (8) Without prejudice to section 6(1) of the <sup>M73</sup>Civil Evidence (Scotland) Act 1988 (production of copy documents) subsections (2) and (3) above shall not apply, for the purposes of civil proceedings in Scotland, as respects the admissibility of a copy document; but subsection (5) above shall apply to a person purporting to authenticate any such document and to authentication as it applies to an officer purporting to certify any such document and to certification.

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**Marginal Citations**

**M73** 1988 c. 32.

## **289 Inspection and admissibility in evidence of copies of certain documents.**

- (1) Where under any enactment a document is open to public inspection when in the custody of the Registrar General of Shipping and Seamen—
  - (a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but
  - (b) the original shall nevertheless be made available for public inspection if the copy or other reproduction is illegible.

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- (2) Where the Registrar General of Shipping and Seamen destroys any document which has been sent to him under or by virtue of any enactment, and keeps a copy or other reproduction of that document, then—
  - (a) any enactment providing for that document to be admissible in evidence or open to public inspection, and
  - (b) in the case of a document falling within subsection (1) above, that subsection, shall apply to the copy or other reproduction as if it were the original.
- (3) For the purposes of this section, and of section 288(2) in its application to documents in the custody of the Registrar General of Shipping and Seamen, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

## **290 Proof, etc of exemptions.**

- (1) Where any exception, exemption, excuse or qualification applies in relation to an offence under this Act—
  - (a) it may be proved by the defendant, but
  - (b) need not be specified or negatived in any information or complaint;
 and, if so specified or negatived, shall not require to be proved by the informant or complainant.
- (2) This section applies in relation to an offence whether or not the exception, exemption, excuse or qualification is contained in the section creating the offence.
- (3) This section does not apply to Scotland.

### *Service of documents*

## **291 Service of documents.**

- (1) Any document authorised or required to be served on any person may be served on that person—
  - (a) by delivering it to him;
  - (b) by leaving it at his proper address; or
  - (c) by sending it by post to him at his proper address.
- (2) Any such document required to be served on the master of a ship may be served—
  - (a) where there is a master, by leaving it for him on board the ship with the person appearing to be in command or charge of the ship;
  - (b) where there is no master, on—
    - (i) the managing owner of the ship; or
    - (ii) if there is no managing owner, on any agent of the owner; or
    - (iii) where no such agent is known or can be found, by leaving a copy of the document fixed to the mast of the ship.
- (3) Any document authorised or required to be served on any person may—
  - (a) in the case of a body corporate, be served on the secretary or clerk of that body;
  - (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business or, in Scotland, on the firm.



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- (4) Any notice authorised or required by or under Part II to be served on the Secretary of State may be served by post.
- (5) Any notice authorised by section 261, 262, 263 or 264 to be given to an inspector may be given by delivering it to him or by leaving it at, or sending it by post to, his office.
- (6) Any document authorised or required by or under any enactment to be served on the registered owner of a United Kingdom ship shall be treated as duly served on him if served on such persons, in such circumstances and by such method, as may be specified in registration regulations.
- (7) For the purposes of this section and of section 7 of the <sup>M74</sup>Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on whom any document is to be served shall be his last known address, except that—
  - (a) in the case of a body corporate or their secretary or clerk it shall be the address of the registered or principal office of that body;
  - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership;and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office in the United Kingdom.
- (8) If the person to be served with any notice has (whether in pursuance of registration regulations or otherwise) specified an address in the United Kingdom other than his proper address within the meaning of subsection (7) above as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.
- (9) For the purposes of the said section 7 a letter containing—
  - (a) a notice to be served on any person in pursuance of subsection (6) above, or
  - (b) a notice authorised or required to be served under registration regulations on a representative person (within the meaning of those regulations),shall be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to him in the register; and a letter containing any other notice under registration regulations shall be deemed to be properly addressed if it is addressed to the last known address of the person to be served (whether of his residence or of a place where he carries on business).

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**Marginal Citations**

M74 1978 c. 30.

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## PART XIII

### SUPPLEMENTAL

#### *Administration*

#### **292 General functions of Secretary of State.**

- (1) The Secretary of State shall continue to have the general superintendence of all matters relating to merchant shipping and seamen and is authorised to carry into execution the provisions of this Act and of all Acts relating to merchant shipping and seaman for the time being in force, except where otherwise provided or so far as relating to revenue.
- (2) The Secretary of State may take any legal proceedings under this Act in the name of any of his officers.

#### **293 Functions of Secretary of State in relation to marine pollution.**

- (1) The Secretary of State shall continue to have the functions of taking, or co-ordinating, measures to prevent, reduce and minimise the effects of, marine pollution.
- (2) Without prejudice to the generality of subsection (1) above, the functions of the Secretary of State under that subsection include—
  - [<sup>F92</sup>(za) the preparation, review and implementation of a national plan setting out arrangements for responding to incidents which cause or may cause marine pollution with a view to preventing such pollution or reducing or minimising its effects;]
  - (a) the acquisition, maintenance, use and disposal of ships, aircraft, equipment and other property;
  - (b) the provision of services, including research, training and advice;
  - (c) the giving of assistance to any other State or international institution under any international agreement relating to the prevention, reduction or control of marine pollution; and
  - (d) any other functions exercisable on his behalf on 1st October 1994 by the Marine Pollution Control Unit.
- (3) Assistance under subsection (2)(c) above shall be given on such terms as will secure reimbursement of the cost of giving the assistance if and to the extent that reimbursement will be practicable in the circumstances.
- (4) The Secretary of State may make reasonable charges for the supply of goods or services.
- [<sup>F93</sup>(4A) Where under subsection (1) above the Secretary of State agrees that another person shall take any measures to prevent, reduce or minimise the effects of marine pollution, he may agree to indemnify that other person in respect of liabilities incurred by that person in connection with the taking of the measures.]
- (5) In this section—
 

“marine pollution” means pollution caused by ships, offshore installations or submarine pipelines affecting or likely to affect the United Kingdom or United Kingdom waters or controlled waters;

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“offshore installation” means any installation which is maintained for underwater exploitation or exploration to which the <sup>M75</sup>Mineral Working (Offshore Installations) Act 1971 applies;

“pipeline” has the same meaning as in Part III of the <sup>M76</sup>Petroleum and Submarine Pipelines Act 1975 and “submarine” means in, under or over United Kingdom waters or controlled waters;

“United Kingdom controlled waters” means any part of the sea within the limits of an area designated under section 1(7) of the <sup>M77</sup>Continental Shelf Act 1964;

but no restriction as to the seas to which functions under this section extend is implied as regards the functions mentioned in subsection (2)(c) above.

#### Textual Amendments

**F92** S. 293(2)(za) inserted (17.17.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 17**; S.I. 1997/1539, art. 2, **Sch.**

**F93** S. 293(4A) inserted (17.7.1997) by 1997 c. 28, s. 6; S.I. 1997/1539, art. 2, **Sch.**

#### Marginal Citations

**M75** 1971 c. 61.

**M76** 1975 c. 74.

**M77** 1964 c. 29.

### 294 General power to dispense.

- (1) The Secretary of State may, if he thinks fit, and upon such conditions (if any) as he thinks fit to impose, exempt any ship from any specified requirement of, or prescribed under, this Act other than Chapter II of Part VI, or dispense with the observance of any such requirement in the case of any ship, if he is satisfied, as respects that requirement, of the matters specified in subsection (2) below.
- (2) Those matters are—
  - (a) that the requirement has been substantially complied with in the case of that ship or that compliance with it is unnecessary in the circumstances; and
  - (b) that the action taken or provision made as respects the subject-matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.
- (3) The Secretary of State shall annually lay before both Houses of Parliament a special report stating—
  - (a) the cases in which he has exercised his powers under this section during the preceding year; and
  - (b) the grounds upon which he has acted in each case.

### 295 Registrar General of Shipping and Seamen.

- (1) There shall continue to be an officer known as the Registrar General of Shipping and Seamen.
- (2) The Registrar General of Shipping and Seamen shall be appointed, and may be removed, by the Secretary of State.

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- (3) The Registrar General of Shipping and Seamen shall exercise such functions as are conferred on him by this Act and keep such records and perform such other duties as the Secretary of State may direct.
- (4) The Secretary of State may appoint and remove persons to perform on behalf of the Registrar General of Shipping and Seamen such of his functions as the Secretary of State or the Registrar General of Shipping and Seamen may direct.
- (5) Subsection (4) above does not apply in relation to the functions of the Registrar General of Shipping and Seaman as registrar under Part II.

## **296 Mercantile marine superintendents.**

- (1) There shall continue to be officers known as mercantile marine superintendents.
- (2) Mercantile marine superintendents shall be appointed, and may be removed, by the Secretary of State.
- (3) Mercantile marine superintendents shall exercise the functions conferred on superintendents by this Act.

## **297 Wreck commissioners, etc.**

- (1) The Lord Chancellor may appoint such number of persons as he thinks fit to be wreck commissioners and may remove any wreck commissioners appointed by him.
- (2) A wreck commissioner shall vacate his office on the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the <sup>M78</sup>Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).
- (3) Before appointing a person to act as wreck commissioner in Northern Ireland the Lord Chancellor shall consult the Chief Justice of Northern Ireland.
- (4) There shall be paid to any wreck commissioner such remuneration, out of money provided by Parliament, as the Lord Chancellor may with the consent of the Treasury determine.
- (5) There shall be paid to any assessor appointed under this Act such remuneration, out of money provided by Parliament, as the Lord Chancellor may with the consent of the Treasury determine.

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### **Marginal Citations**

**M78** 1993 c. 8.

## **298 Transmission of documents to Registrar General.**

- (1) The following duties are imposed on all superintendents and all officers of customs and excise as respects all documents which are delivered or transmitted to or retained by them in pursuance of this Act.

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- (2) They shall take charge of the documents and keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where the documents come into their hands, or for any other proper purpose.
- (3) They shall, if required, produce them for any of those purposes, and shall then transmit them to the Registrar General of Shipping and Seamen.
- [<sup>F94</sup>(4) The Registrar General of Shipping and Seamen shall retain documents transmitted to him under subsection (3) above for such period as the Secretary of State may direct.]

#### Textual Amendments

**F94** S. 298(4) substituted (17.7.1997) by 1997 c. 28, s. 23; S.I. 1997/1539, art. 2 Sch.

### 298 Transmission of documents to Registrar General. **U.K.**

- (1) The following duties are imposed on all superintendents and all officers of customs and excise as respects all documents which are delivered or transmitted to or retained by them in pursuance of this Act.
- (2) They shall take charge of the documents and keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where the documents come into their hands, or for any other proper purpose.
- (3) They shall, if required, produce them for any of those purposes, and shall then transmit them to the Registrar General of Shipping and Seamen.
- (4) The Registrar General of Shipping and Seamen shall record and preserve all documents transmitted to him in pursuance of the foregoing provisions of this section.

### 299 Returns, etc to Secretary of State.

- (1) All superintendents shall make and send to the Secretary of State such returns or reports on any matter relating to British merchant shipping or seamen as he may require.
- (2) All consular officers abroad and all officers of customs and excise abroad shall make and send to the Secretary of State such returns or reports on any matter relating to British merchant shipping or seamen as he may require.
- (3) All superintendents shall, when required by the Secretary of State, produce to him or to his officers all official log-books and other documents which are delivered to them under this Act.
- (4) All surveyors of ships shall make such returns to the Secretary of State as he may require with respect to—
  - (a) the build, dimensions, draught, burden, speed and room for fuel of ships surveyed by them; and
  - (b) the nature and particulars of machinery and equipment of such ships.
- (5) The owner, master and engineer of any ship being surveyed shall, when required to do so, give to the surveyors all such information and assistance within his power as the surveyors require for the purpose of returns under subsection (4) above.

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- (6) If the owner, master or engineer, on being required under subsection (5) above to give any information or assistance, fails, without reasonable excuse, to give the information or assistance he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **300 Forms.**

- (1) The Secretary of State may prepare and approve forms for any book, instrument or paper required under this Act, and may alter such forms as he thinks fit.
- (2) The Secretary of State shall cause every such form to be marked with the distinguishing mark of his Department and, before finally issuing any form or making any alteration in a form, shall cause public notice thereof to be given in such manner as he thinks requisite in order to avoid inconvenience.
- (3) The Secretary of State shall cause such forms to be supplied at offices of customs and excise and Department of Transport Marine Offices, free of charge or at such reasonable prices as the Secretary of State may fix, or he may licence any persons to print and sell the forms.
- (4) Every such book, instrument or paper shall be made in the form (if any) approved by the Secretary of State, or as near as circumstances permit; and unless so made shall not be admissible in evidence in any civil proceedings on the part of the owner or master of any ship.
- (5) Every such book, instrument or paper if made in a form purporting to be the proper form and to be marked in accordance with subsection (2) above shall be deemed to be in the form required by this Act, unless the contrary is proved.
- (6) The foregoing provisions do not apply where special provision is made by this Act.
- (7) If any person prints, sells or uses any document purporting to be a form approved by the Secretary of State knowing that the document is not the form approved for the time being or that the document has not been prepared or issued by the Secretary of State that person shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (8) In Scotland, if any person forges any distinguishing mark on any form issued under this Act or fraudulently alters any such form he shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
  - (b) on conviction on indictment, to a fine or to imprisonment or to both.

### **301 Advisory committees.**

- (1) The Secretary of State may, if he thinks fit, appoint committees for the purpose of advising him when considering the making or alteration of any regulations, rules or scales for the purpose of this Act other than Chapter II of Part VI.
- (2) A committee appointed under this section shall consist of persons representing the interests principally affected or having special knowledge of the subject matter.

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- (3) The Secretary of State shall pay to the members of any committee under this section such travelling and other allowances as the Secretary of State determines with the consent of the Treasury.
- (4) Committees may be appointed under this section to advise the Secretary of State specially as regards any special regulations, rules or scales or generally as regards any class or classes of regulations, rules or scales which the Secretary of State may assign to them.

### *Financial Provisions*

#### **302 Fees.**

- (1) The Secretary of State may, with the consent of the Treasury, make regulations prescribing fees to be charged in respect of—
  - (a) the issue or recording in pursuance of this Act of any certificate, licence or other document; or
  - (b) the doing of any thing in pursuance of this Act.
- (2) In the case of fees for the measurement of a ship's tonnage the fees may be prescribed as maximum fees.
- (3) All fees received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

#### **[<sup>F95</sup>302A Funding of maritime services.**

Schedule 11A (funding of maritime services) shall have effect.]

#### **Textual Amendments**

**F95** s. 302A inserted (19.3.1997) by 1997 c. 28, ss. 13, 31(4), Sch. 2 para. 1

#### **303 Expenses of Commissioners of Customs and Excise.**

- (1) All expenses incurred by the Commissioners of Customs and Excise in the conduct of proceedings or otherwise in carrying into effect the provisions of this Act shall be treated as expenses relating to the revenue of customs and excise and shall be paid accordingly.
- (2) The Secretary of State may, however, with the consent of the Treasury, repay all or any part of such of the expenses paid in accordance with subsection (1) above as are chargeable under this Act on money provided by Parliament.

#### **304 Expenses charged on money provided by Parliament.**

- (1) The following expenses and other amounts shall be payable out of money provided by Parliament—
  - (a) the expenses incurred by the Secretary of State under this Act;
  - (b) the salaries, pensions, gratuities and allowances of surveyors of ships, Departmental inspectors and superintendents;

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- (c) the sums required for the contribution from the United Kingdom towards maintaining, in accordance with the Safety Convention, a service in the North Atlantic for the study and observation of ice and for the ice patrol;
  - (d) the expenses of obtaining depositions, reports and returns respecting wrecks and casualties;
  - (e) such sums as the Secretary of State may, in his discretion, think fit to pay in respect of claims on account of the proceeds of wreck;
  - (f) the expenses incurred in respect of receivers of wrecks and the performance of their duties;
  - (g) such expenses as the Secretary of State directs for—
    - (i) establishing and maintaining on the coasts of the United Kingdom proper lifeboats with the necessary crews and equipment;
    - (ii) affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea; or
    - (iii) rewarding the preservation of life in such cases;
  - (h) any other amounts which are by virtue of any provision of this Act payable out of money provided by Parliament.
- (2) In subsection (1)(c) above “the Safety Convention” means the International Convention for the Safety of Life at Sea signed in London on 1st November 1974.

### **305 Payments to be made into Consolidated Fund.**

- (1) The following sums shall be paid into the Consolidated Fund—
- (a) all fees, charges and expenses payable in respect of the survey and measurement of ships;
  - (b) any fees received by receivers of wrecks;
  - (c) any sums received by the Secretary of State under this Act or which are, by any provision of it, required to be paid into the Consolidated Fund.
- (2) All fees mentioned in this section shall be paid at such time and in such manner as the Secretary of State directs.

#### *Subordinate Legislation*

### **306 Regulations, rules and orders, etc.**

[<sup>F96</sup>(1) Subject to subsection (1A) below, any power of the Secretary of State to make regulations, orders or rules under this Act shall be exercisable by statutory instrument.

<sup>F96</sup>(1A) Subsection (1) above does not apply to—

- (a) rules made under section 91; or
- (b) any instrument made under section 128(4)(f) other than an instrument containing regulations.]

[<sup>F97</sup>(2) Subject to subsection (2A) below—

- (a) any statutory instrument containing regulations under this Act (including such an instrument made by virtue of section 128(4)(f) or 182B(4)(e)), and
- (b) any statutory instrument containing an order or rules made under this Act,



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shall be subject to annulment in pursuance of a resolution of either House of Parliament.

<sup>F97</sup>(2A) Subsection (2) above does not apply to—

- (a) regulations made under section 130A, 259(8) or 260(3) or Schedule 11A;
- (b) commencement orders;
- (c) any order made under section 216(2), 223(3), paragraph 8 of Part II of Schedule 7, or any provision of Schedule 14.]

(3) Any statutory instrument containing an Order in Council under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament but this subsection does not apply to Orders under section 2(4), 128, 129, 152(2), 172(2) [<sup>F98</sup>182B(1)], 183, 184 [<sup>F99</sup>185(2A) or (2B)], 224, 308 or 315(2) or under paragraph 29 of Schedule 3, paragraph 10 of Part II of Schedule 6 or paragraph 13 of Part II of Schedule 7.

(4) Before making the following regulations, rules or orders, namely—

- (a) regulations under Part III or [<sup>F100</sup>section 108 or 130A];
- (b) rules under Chapter II of Part V;
- (c) an order under section 311,

the Secretary of State shall consult with organisations in the United Kingdom appearing to him representative of persons who will be affected by the regulations, rules or orders.

(5) Any direction, notice, order or authorisation under this Act given or made by the Secretary of State shall be in writing.

(6) Any power to give a direction includes power to vary or revoke the direction by a subsequent direction.

#### Textual Amendments

- F96** S. 306(1)(1A) substituted for s. 306(1) (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(2)**; S.I. 1997/1539, art. 2, **Sch.**
- F97** S. 306(2)(2A) substituted s. 306(2) (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(3)**; S.I. 1997/1082, art. 2, **Sch.**
- F98** Words in s. 306(3) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(4)(a)**; S.I. 1997/1539, art. 2, **Sch.**
- F99** Words in s. 306(3) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(4)(b)**; S.I. 1997/1539, art. 2, **Sch.**
- F100** Words in s. 306(4)(a) inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(5)**; S.I. 1997/1082, art. 2, **Sch.**

*Application of Act to certain descriptions of ships, etc.*

### 307 Application of Act to non-United Kingdom ships.

(1) The Secretary of State may make regulations specifying any description of non-United Kingdom ships and directing that such of the provisions of this Act and of instruments under this Act as may be specified in the regulations—

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- (a) shall extend to non-United Kingdom ships of that description and to masters and seamen employed in them, or
  - (b) shall so extend in such circumstances as may be so specified, with such modifications (if any) as may be so specified.
- (2) Regulations under this section may contain such transitional, supplementary and consequential provisions as appear to the Secretary of State to be expedient.
- (3) In this section “non-United Kingdom ships” means ships which are not registered in the United Kingdom.

### 308 Application of Act to government ships.

- (1) Subject to any other provision of it, this Act shall not apply to ships belonging to Her Majesty.
- (2) Her Majesty may by Order in Council make regulations with respect to the manner in which Government ships may be registered as British ships under Part II; and this Act, subject to any exceptions and modifications which may be made by Order in Council, either generally or as respects any special class of Government ships, shall apply to government ships registered in accordance with the Order as if they were registered in accordance with Part II.
- (3) Any Order in Council under subsection (2) above shall be laid before Parliament after being made.
- (4) In this section “Government ships” means ships not forming part of Her Majesty’s Navy which belong to Her Majesty, or are held by any person on behalf of or for the benefit of the Crown (and for that reason cannot be registered under Part II).

#### Modifications etc. (not altering text)

- C69 S. 308 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1  
S. 308 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1

### 309 Application of Act to ships chartered by demise to the Crown.

- (1) This section applies to a ship if for the time being—
- (a) the ship is—
    - (i) registered in the United Kingdom, and
    - (ii) in the service of a government department (including a Northern Ireland department) (“the relevant department”) by reason of a charter by demise to the Crown; and
  - (b) there is in force under section 308(2) an Order in Council providing for the registration of Government ships in the service of the relevant department.
- (2) Where this section applies to any ship, the following statutory provisions, namely—
- (a) the provisions of the Order in Council referred to in subsection (1)(b) above (excluding those relating to registration under the Order), and
  - (b) the provisions of this Act (as they apply by virtue of section 308(2) and that Order in Council),

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shall (subject to subsections (3) and (4) below) have the same effect in relation to that ship as they have in relation to a Government ship in the service of the relevant department (whether referred to as such or as such a ship registered in pursuance of that Order in Council).

- (3) Subject to subsection (4) below, Part II shall have effect in relation to a ship to which this section applies in like manner as if it were not, for the purposes of this Act, a ship belonging to Her Majesty.
- (4) Her Majesty may by Order in Council provide that any statutory provision falling within subsection (2) or (3) above and specified in the Order—
  - (a) shall not have effect in accordance with that subsection in relation to a ship to which this section applies, or
  - (b) shall so have effect in relation to such a ship, but subject to such modifications as are specified in the Order.
- (5) In the application of any provision of this Act (other than a provision of Part II) in relation to a ship to which this section applies, any reference to the owner of the ship shall be construed as a reference to the relevant department.
- (6) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.

### **310 Application of Act to hovercraft.**

The enactments and instruments with respect to which provision may be made by Order in Council under section 1(1)(h) of the <sup>M79</sup>Hovercraft Act 1968 shall include this Act (except Parts I and II) and any instrument made thereunder.

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#### **Marginal Citations**

M79 1968 c. 59

### **311 Application of Act to certain structures, etc.**

- (1) The Secretary of State may by order provide that a thing designed or adapted for use at sea and described in the order is or is not to be treated as a ship for the purposes of any specified provision of this Act or of an instrument made thereunder.
- (2) An order under this section may—
  - (a) make different provision in relation to different occasions;
  - (b) if it provides that a thing is to be treated as a ship for the purposes of a specified provision, provide that the provision shall have effect in relation to the thing with such modifications as are specified.
- (3) In this section “specified” means specified in the order.

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### *Special provisions for Scots law*

#### **312 Special provisions for Scots law.**

- (1) Nothing in this Act shall be held in any way to annul or restrict the common law of Scotland with regard to the prosecution or punishment of offences at the instance or on the authority or with the concurrence of the Lord Advocate, or on the authority of the High Court or to any punishment consequent on such prosecution or the rights of owners or creditors in regard to enforcing a judicial sale of any ship and equipment, or to give to the High Court in England and Wales any jurisdiction in respect of salvage in Scotland which it did not have or exercise before 25 August 1894.
- (2) Any enactment which confers on any court in Scotland Admiralty jurisdiction in respect of damage shall have effect as if references to damage included reference to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem or in personam.

### *Final provisions*

#### **313 Definitions.**

- (1) In this Act, unless the context otherwise requires—
  - “British connection” has the meaning given in section 9(9);
  - “British citizen”, “British Dependent Territories citizen”, “British Overseas citizen” and “Commonwealth citizen” have the same meaning as in the <sup>M80</sup>British Nationality Act 1981;
  - “British ship” has the meaning given in section 1(1);
  - “commissioned military officer” means a commissioned officer in Her Majesty’s land forces on full pay;
  - “commissioned naval officer” means a commissioned officer of Her Majesty’s Navy on full pay;
  - “conservancy authority” includes all persons entrusted with the function of conserving, maintaining or improving the navigation of a tidal water (as defined in section 255);
  - “consular officer”, in relation to a foreign country, means the officer recognised by Her Majesty as a consular officer of that foreign country;
  - “contravention” includes failure to comply (and “failure” includes refusal);
  - “Departmental inspector” and “Departmental officer” have the meanings given in section 256(9);
  - “fishing vessel” means a vessel for the time being used (or, in the context of an application for registration, intended to be used) for, or in connection with fishing for sea fish other than a vessel used (or intended to be used) for fishing otherwise than for profit; and for the purposes of this definition “sea fish” includes shellfish, salmon and migratory trout (as defined by section 44 of the <sup>M81</sup>Fisheries Act 1981);
  - “foreign”, in relation to a ship, means that it is neither a United Kingdom ship nor a small ship (as defined in section 1(2)) which is a British ship;
  - “Government ship” has the meaning given in section 308;
  - “harbour” includes estuaries, navigable rivers, piers, jetties and other works in or at which ships can obtain shelter or ship and unship goods or passengers;

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“harbour authority” includes all persons entrusted with the function of constructing, improving, managing, regulating, maintaining or lighting a harbour;

[<sup>F101</sup>“harbour authority” means, in relation to a harbour—

- (a) the person who is the statutory harbour authority for the harbour, or
- (b) if there is no statutory harbour authority for the harbour, the person (if any) who is the proprietor of the harbour or who is entrusted with the function of managing, maintaining or improving the harbour;]

“master” includes every person (except a pilot) having command or charge of a ship and, in relation to a fishing vessel, means the skipper;

[<sup>F102</sup>“Minister of the Crown” has the same meaning as in the Ministers of the <sup>M82</sup>Crown Act 1975;]

“port” includes place;

“proper officer” means a consular officer appointed by Her Majesty’s Government in the United Kingdom and, in relation to a port in a country outside the United Kingdom which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;

[<sup>F103</sup>“qualifying foreign ship” has the meaning given in section 313A;]

“the register” and “registered” have the meaning given in section 23(1);

“the registrar”, in relation to the registration of ships, has the meaning given in section 8;

“registration regulations” means regulations under section 10;

“relevant British possession” means—

- (a) the Isle of Man;
- (b) any of the Channel Islands; and
- (c) any colony;

“safety regulations” means regulations under section 85;

“seaman” includes every person (except masters and pilots) employed or engaged in any capacity on board any ship;

“ship” includes every description of vessel used in navigation;

[<sup>F104</sup>“statutory harbour authority” means—

- (a) in relation to Great Britain, a harbour authority within the meaning of the <sup>M83</sup>Harbours Act 1964; and
- (b) in relation to Northern Ireland, a harbour authority within the meaning of the <sup>M84</sup>Harbours Act (Northern Ireland) 1970.]

“superintendent” means a mercantile marine superintendent appointed under section 296;

“surveyor of ships” has the meaning given in section 256(9);

“the tonnage regulations” means regulations under section 19;

“United Kingdom ship” (and in Part V “United Kingdom fishing vessel”) has the meaning given in section 1(3) except in the contexts there mentioned; and

“wages” includes emoluments.

(2) In this Act—

- (a) “United Kingdom waters” means the sea or other waters within the seaward limits of the territorial sea of the United Kingdom; and

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- (b) “national waters”, in relation to the United Kingdom, means United Kingdom waters landward of the baselines for measuring the breadth of its territorial sea.

[<sup>F105</sup>(2A) In this Act “right of innocent passage”, “right of transit passage” and “straits used for international navigation” shall be construed in accordance with the United Nations Convention on the Law of the Sea 1982.]

- (3) A vessel for the time being used (or intended to be used) wholly for the purpose of conveying persons wishing to fish for pleasure is not a fishing vessel.

#### Textual Amendments

- F101** Definition of “harbour authority” in s. 313(1) inserted (17.17.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(2)(a)**; S.I. 1997/1539, art. 2, **Sch.**
- F102** Definition of “Minister of the Crown” in s. 313(1) inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(2)(b)**; S.I. 1997/1082, art. 2, **Sch.**
- F103** Definition of “qualifying foreign ship” in s. 313(1) inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(2)(c)**; S.I. 1997/1082, art. 2, **Sch.**
- F104** Definition of “statutory harbour authority” in s. 313(1) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(2)(d)**; S.I. 1997/1539, art. 2, **Sch.**
- F105** S. 313(2A) inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 19(3)**; S.I. 1997/1082, art. 2, **Sch.**

#### Modifications etc. (not altering text)

- C70** S. 313 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 313 extended (with modifications) to Guernsey (11.3.1998) by 1998/260, arts. 2, 3, Sch. 1

#### Marginal Citations

- M80** 1981 c. 61.  
**M81** 1981 c. 29.  
**M82** 1975 c. 26.  
**M83** 1964 c. 40.  
**M84** 1970 c. 1 (N.I.).

#### [<sup>F106</sup>313A Meaning of “qualifying foreign ship”.

- (1) In this Act “qualifying foreign ship” means any ship other than—
- (a) a British ship, or
  - (b) a ship which is not registered under Part II and which (although not by virtue of section 1(1)(d) a British ship)—
    - (i) is wholly owned by persons falling within subsection (2) below, and
    - (ii) is not registered under the law of a country outside the United Kingdom.
- (2) The following persons fall within this subsection, namely—
- (a) British citizens,
  - (b) British Dependent Territories citizens,
  - (c) British Overseas citizens,
  - (d) persons who under the <sup>M85</sup>British Nationality Act 1981 are British subjects,
  - (e) British Nationals (Overseas) (within the meaning of that Act),
  - (f) British protected persons (within the meaning of that Act), or

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**Changes to legislation:** Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 30 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- (g) bodies corporate incorporated in the United Kingdom or in any relevant British possession and having their principal place of business in the United Kingdom or in any relevant British possession.]

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**Textual Amendments**

**F106** S. 313A inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 20**; S.I. 1997/1082, art. 2, **Sch.**

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**Marginal Citations**

**M85** 1981 c. 61.

**314 Repeals, consequential amendments and transitional provisions.**

- (1) The enactments specified in Schedule 12 (which include enactments which are spent) are, subject to subsection (3) below and to any Note at the end of the Schedule, repealed to the extent specified in the third column of that Schedule.
- (2) The enactments specified in Schedule 13 shall have effect subject to the amendments specified in that Schedule.
- (3) The saving and transitional provisions in Schedule 14 shall have effect.
- (4) The Secretary of State may, by order, make such amendments of any local Act or instrument so far as it provides for the registration of ships in local registers as appear to him to be appropriate in view of the provisions made for the register mentioned in section 8.

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**Commencement Information**

**I9** S. 314 partly in force; s. 314(1) not in force at Royal Assent (so far as it relates to the repeal in the Aliens Restriction (Amendment) Act 1919 or in the Local Government etc. (Scotland) Act 1994) see **Sch. 14 para. 5**; s. 314(2)-(4) in force at 1.1.1996, see s. 316(2)

**315 Extent and application.**

- (1) Except for sections 18 and 193(5), this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Her Majesty may by Order in Council direct that any provision of this Act and instruments made under this Act shall, with such exceptions, adaptations and modifications (if any) as may be specified in the Order, extend to any relevant British possession.
- (3) Her Majesty may, in relation to any relevant British possession, by Order in Council direct that, with such exceptions, adaptations and modifications (if any) as may be specified in the Order, any of the provisions of this Act shall have effect as if references in them to the United Kingdom included a reference to that possession.
- (4) An Order in Council under subsection (2) above may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.

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- (5) Without prejudice to the generality of subsection (4) above, an Order in Council under this section may, in its application to any relevant British possession, provide for such authority in that possession as is specified in the Order to furnish the Secretary of State or the registrar with such information with respect to the registration of ships in that possession under its law as is specified in the Order or as the Secretary of State may from time to time require, and for any such information to be so furnished at such time or times and in such manner as is or are so specified or (as the case may be) as the Secretary of State may so require.

### **316 Short title and commencement.**

- (1) This Act may be cited as the Merchant Shipping Act 1995.
- (2) This Act shall come into force on 1st January 1996.

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#### **Modifications etc. (not altering text)**

- C71** S. 317 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**  
S. 316 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, **Sch. 1**



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