



Merchant Shipping Act 1995

1995 CHAPTER 21

PART VII

LIABILITY OF SHIPOWNERS AND OTHERS

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.
- (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.

Status: Point in time view as at 01/01/1996.

Changes to legislation: Merchant Shipping Act 1995, Cross Heading: Multiple fault; apportionment, liability and contribution is up to date with all changes known to be in force on or before 02 June 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)

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.

Status:

Point in time view as at 01/01/1996.

Changes to legislation:

Merchant Shipping Act 1995, Cross Heading: Multiple fault; apportionment, liability and contribution is up to date with all changes known to be in force on or before 02 June 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.