



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART VI

#### PREVENTION OF POLLUTION

#### 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;  
F1  
...
- (d) “Fund Convention country” means a country in respect of which the Fund Convention is in force.
- [F2(e) “the Supplementary Fund Protocol” means the Protocol of 2003 to the Fund Convention;
- (f) “the Supplementary Fund” means the International Supplementary Fund established by the Supplementary Fund Protocol; and
- (g) “Supplementary Fund Protocol country” means a country in respect of which the Supplementary Fund Protocol is in force.]

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

[<sup>F3</sup>(3) Subsection (2) applies in relation to the Supplementary Fund Protocol as it applies in relation to the Fund Convention.]

#### Textual Amendments

- F1** Word in s. 172(1)(c) repealed (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **3(a)**
- F2** S. 172(1)(e)-(g) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **3(a)**
- F3** S. 172(3) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **3(b)**

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

- C1** 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.**
- S. 172 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), art. 2, **Sch.**
- S. 172 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, **Sch. 1**
- S. 172 extended (with modification) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, **Sch. 1**
- 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*

#### **173 Contributions by importers of oil and others.**

- (1) Contributions shall be payable to the Fund [<sup>F4</sup>and to the Supplementary 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.

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- (3) Contributions shall also be payable [<sup>F5</sup>—
- (a)] 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 [<sup>F6</sup>; and
  - (b) to the Supplementary 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 Supplementary Fund Protocol 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—
- (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 [<sup>F7</sup>—
    - (i)] by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund
    - (ii) [<sup>F8</sup>in the case of contributions to the Supplementary Fund, by the Director of the Supplementary Fund under Article 11 of the Supplementary Fund Protocol and notified to that person by the Supplementary 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 [<sup>F9</sup>or the Assembly of the Supplementary Fund (as the case may be)] , 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—

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“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 [<sup>F10</sup>section 1159 of the Companies Act 2006], 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.

#### **Textual Amendments**

- F4** Words in s. 173(1) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(2)**
- F5** Words in s. 173(3) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(3)(a)**
- F6** S. 173(3)(b) and word inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(3)(b)**
- F7** Words in s. 173(7)(a) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(4)(a)**
- F8** Words in s. 173(7)(a) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(4)(b)**
- F9** Words in s. 173(7)(a) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **4(4)(c)**
- F10** Words in s. 173(10) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 152(4)** (with art. 10)

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

- C2** 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.**
- S. 173 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, **Sch.**

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- S. 173 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, **Sch.**
- S. 173 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, **Sch.**
- S. 173 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**
- S. 173 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- S. 173 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**
- S. 173 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- 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.**

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

- (1) For the purpose of transmitting to the Fund [<sup>F11</sup>or the Supplementary Fund] the names and addresses of the persons who under section 173 are liable to make contributions to the Fund [<sup>F11</sup>or the Supplementary 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 [<sup>F12</sup>or the Supplementary Fund] against any person to recover any amount due under section 173, particulars contained in any list transmitted by the Secretary of State to [<sup>F13</sup>either of those Funds] 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.
- (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,

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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.

#### **Textual Amendments**

- F11** Words in s. 174(1) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **5(2)**
- F12** Words in s. 174(4) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **5(3)(a)**
- F13** Words in s. 174(4) substituted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **5(3)(b)**

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

- C3** 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.**
- S. 174 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**
- S. 174 extended (with modifications) to the British Indian Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**
- S. 174 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, **Sch.**
- S. 174 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, **Sch. 1**
- S. 174 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, **Sch.**
- S. 174 extended (with modifications) to South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), art. 2, **Sch.**
- S. 174 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), art. 2, **Sch.**
- S. 174 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), art. 2, **Sch.**
- S. 174 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, **Sch. 1**
- S. 174 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, **Sch. 1**
- S. 174 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), art. 2, **Sch.**
- S. 174 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), art. 2, **Sch.**
- S. 174 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), art. 2, **Sch.**

### *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—

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- (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.
- (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

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- (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)**

- C4** 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.](#)
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- 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.](#)
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- 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.](#)
- 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.



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- (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.
- (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)**

- C5** 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.](#)

*Status: Point in time view as at 15/06/2017.*

*Changes to legislation: Merchant Shipping Act 1995, Chapter IV is up to date with all changes known to be in force on or before 20 July 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. 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.](#)

#### **[<sup>F14</sup>176A] Liability of the Supplementary Fund**

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

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

- (2) Subsection (1) shall apply with the substitution for the words “the United Kingdom” of the words “a Supplementary Fund Protocol country” where—
- (a) the headquarters of the Supplementary Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention or the Fund Convention for compensation for the pollution damage have been brought in a country which is not a Supplementary Fund Protocol country, or
  - (b) the incident has caused pollution damage in the territory of the United Kingdom and of another Supplementary Fund Protocol country, and proceedings under the Liability Convention or the Fund Convention for compensation for the pollution damage have been brought in a country which is not a Supplementary Fund Protocol country or in the United Kingdom.
- (3) Nothing in this section applies to pollution damage resulting from an incident if—
- (a) in the case of a single occurrence, it took place before the day on which the Supplementary Fund Protocol enters into force as respects the United Kingdom; or
  - (b) in the case of a series of occurrences having the same origin, the first of those occurrences took place before that day.

*Status: Point in time view as at 15/06/2017.*

*Changes to legislation: Merchant Shipping Act 1995, Chapter IV is up to date with all changes known to be in force on or before 20 July 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)*

### Textual Amendments

**F14** Ss. 176A, 176B inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), 6

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

- (1) The Supplementary Fund's liability under section 176A shall be subject to—
- (a) paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (which impose an overall limit on the liabilities of the Supplementary Fund); and
  - (b) paragraphs 2 and 3 of Article 15 of the Supplementary Fund Protocol (which prevent the Supplementary Fund from paying compensation temporarily and permanently where obligations to communicate information to the Director under paragraph 1 of Article 13 and paragraph 1 of Article 15 have not been met).

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

- (2) For the purpose of giving effect to paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol a court giving judgment against the Supplementary Fund in proceedings under section 176A shall notify the Supplementary Fund, and—
- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,
  - (b) that leave shall not be given unless and until the Supplementary Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and
  - (c) in the latter case the judgment shall be enforceable only for the reduced amount.
- (3) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (2) shall be steps to obtain payment in sterling; and—
- (a) for the purpose of converting such an amount from special drawing rights into sterling, one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
    - (i) the relevant date, namely the date referred to in paragraph 2(b) of Article 4 of the Supplementary Fund Protocol, or
    - (ii) if no sum has been so fixed for the relevant date, the last day before that date for which a sum has been so fixed; and
  - (b) a certificate given by or on behalf of the Treasury stating—
    - (i) that a particular sum in sterling has been so fixed for the relevant date, or
    - (ii) that no sum has been so fixed for the relevant date and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant date,shall be conclusive evidence of those matters for the purposes of this Chapter.

*Status: Point in time view as at 15/06/2017.*

*Changes to legislation: Merchant Shipping Act 1995, Chapter IV is up to date with all changes known to be in force on or before 20 July 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)*

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

#### Textual Amendments

**F14** Ss. 176A, 176B inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), 6

### *Supplemental*

#### *Extinguishment of claims.*

#### **177 Jurisdiction and effect of judgments.**

- (1) Paragraph 1(1)(d) of Schedule 1 to the <sup>M1</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 [<sup>F15</sup>or the Supplementary 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<sup>F16</sup>...
- (a) [<sup>F16</sup>the notice shall be deemed to have been given to the Supplementary Fund as well; and
- (b) any judgment given in the proceedings shall, after it has become final and enforceable, become binding on the Fund and the Supplementary Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund or the Supplementary Fund even if it has not intervened in the proceedings]
- (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.
- [<sup>F17</sup>(4) Subject to subsections (5) and (6), Part 1 of the Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this subsection, to—
- (a) 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
- (b) any judgment given by a court in a Supplementary Fund Protocol country to enforce a claim in respect of liability incurred under any provision corresponding to section 176A,
- and in its application to such a judgment the said Part 1 shall have effect with the omission of sections 4(2) and (3).

*Status: Point in time view as at 15/06/2017.*

*Changes to legislation: Merchant Shipping Act 1995, Chapter IV is up to date with all changes known to be in force on or before 20 July 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)*

- (5) No steps shall be taken to enforce such a judgment unless and until the court in which it is registered under Part 1 of the Act of 1933 gives leave to enforce it; and that leave shall not be given unless and until—
- (a) in the case of a judgment within subsection (4)(a), the Fund notifies the court either that the amount of the claim is not to be reduced under paragraphs 4 and 5 of Article 4 of the Fund Convention (as set out in Part 1 of Schedule 5 to this Act) or that it is to be reduced to a specified amount; or
- (b) in the case of a judgment within subsection (4)(b), the Supplementary Fund notifies the court either that the amount of the claim is not to be reduced under paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (as set out in Schedule 5ZA to this Act) or that it is to be reduced to a specified amount.
- [<sup>F17</sup>(6) Where the court is so notified that a claim is to be reduced to a specified amount, the judgment shall be enforceable only for the reduced amount.]]

#### Textual Amendments

- F15** Words in s. 177(1) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **7(2)**
- F16** Words in s. 177(2) substituted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **7(3)**
- F17** S. 177(4)-(6) substituted for s. 177(4)(5) (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **7(4)**

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

- C6** 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

- M1** 1956 c. 46.

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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 [<sup>F18</sup>damage occurred] .

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.
- [<sup>F19</sup>(3) Subsections (1) and (2) apply in relation to claims against the Supplementary Fund as they apply in relation to claims against the Fund (with the substitution for the reference to the Fund in subsection (1)(b) of a reference to the Supplementary Fund).
- (4) For the purposes of this section—
- (a) a person who commences an action to enforce a claim against the Fund in relation to any damage shall be deemed to have also commenced an action to enforce any claim he may have against the Supplementary Fund in relation to that damage; and
  - (b) a person who gives a third party notice to the Fund in relation to any damage as mentioned in subsection (1)(b) shall be deemed to have also given a notice to the Supplementary Fund in relation to that damage.]

#### **Textual Amendments**

- F18** Words in s. 178(1) substituted (30.5.2006) by [Merchant Shipping \(Pollution\) Act 2006 \(c. 8\), ss. 3, 4\(2\)\(3\)](#)
- F19** [S. 178\(3\)\(4\)](#) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\), arts. 1\(2\), 8](#)

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

- C7** 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.](#)

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- 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.

[<sup>F20</sup>(1A) In respect of any sum paid by the Supplementary Fund as compensation for pollution damage the Supplementary 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 [<sup>F21</sup>or the Supplementary Fund] under this Chapter.

### Textual Amendments

- F20** S. 179(1A) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **9(a)**
- F21** Words in s. 179(2) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **9(b)**

### Modifications etc. (not altering text)

- C8** 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**
- S. 179 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**
- S. 179 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**

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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.
- [<sup>F22</sup>(3) Subsections (1) and (2) apply in relation to the Supplementary Fund as they apply in relation to the Fund (with the substitution for references to the Director, any organ or an official of the Fund of references to the Director, any organ or an official of the Supplementary Fund).]

### Textual Amendments

**F22** S. 180(3) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), [10](#)

### Modifications etc. (not altering text)

- C9** 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.](#)  
 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 Interpretation.

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



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“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—

- (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 [<sup>F23</sup>or a Supplementary Fund Protocol country (as the case may be)] .

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*Changes to legislation: Merchant Shipping Act 1995, Chapter IV is up to date with all changes known to be in force on or before 20 July 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)*

### Textual Amendments

- F23** Words in s. 181(3) inserted (8.9.2006) by [The Merchant Shipping \(Oil Pollution\) \(Supplementary Fund Protocol\) Order 2006 \(S.I. 2006/1265\)](#), arts. 1(2), **11**

### Modifications etc. (not altering text)

- C10** 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.
- (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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**Status:** Point in time view as at 15/06/2017.

**Changes to legislation:** Merchant Shipping Act 1995, Chapter IV is up to date with all changes known to be in force on or before 20 July 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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**Subordinate Legislation Made**

**P1** S. 182(1) power exercised (30.5.1996) by [S.I. 1996/1210](#), **art. 2**

**Status:**

Point in time view as at 15/06/2017.

**Changes to legislation:**

Merchant Shipping Act 1995, Chapter IV is up to date with all changes known to be in force on or before 20 July 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.