

*Status: Point in time view as at 05/02/2015.*

*Changes to legislation: Merchant Shipping Act 1995, Paragraph 158 is up to date with all changes known to be in force on or before 15 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)*

## SCHEDULES

### SCHEDULE 4 **U.K.**

#### PREVENTION OF OIL POLLUTION: TRANSITORY PROVISIONS

### CHAPTER III **U.K.**

#### LIABILITY FOR OIL POLLUTION

##### *Limitation of liability*

##### *Limitation actions.*

- 158 (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 and is entitled to limit it, the court shall, after determining the limit of the liability and directing payment into the 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
  - (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 subsections (7) to (10) below.
- (3) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling in accordance with subsection (4) below.
- (4) 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—
- (a) the day on which the determination is made, or
  - (b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.
- (5) A certificate given by or on behalf of the Treasury stating—
- (a) that a particular sum in sterling has been fixed by the International Monetary Fund for the day on which the determination was made; or
  - (b) 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.

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- (6) 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.
- (7) 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.
- (8) 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 person 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.
- (9) 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.
- (10) 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.

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