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## SCHEDULES

### SCHEDULE 1

Section 16.

#### PRIVATE LAW PROVISIONS FOR REGISTERED SHIPS

##### *General*

- 1 (1) Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship or of a share in a ship shall have power absolutely to dispose of it provided the disposal is made in accordance with this Schedule and registration regulations.
- (2) Sub-paragraph (1) above does not imply that interests arising under contract or other equitable interests cannot subsist in relation to a ship or a share in a ship; and such interests may be enforced by or against owners and mortgagees of ships in respect of their interest in the ship or share in the same manner as in respect of any other personal property.
- (3) The registered owner of a ship or of a share in a ship shall have power to give effectual receipts for any money paid or advanced by way of consideration on any disposal of the ship or share.

##### *Transfers etc of registered ships*

- 2 (1) Any transfer of a registered ship, or a share in such a ship, shall be effected by a bill of sale satisfying the prescribed requirements, unless the transfer will result in the ship ceasing to have a British connection.
  - (2) Where any such ship or share has been transferred in accordance with sub-paragraph (1) above, the transferee shall not be registered as owner of the ship or share unless—
    - (a) he has made the prescribed application to the registrar; and
    - (b) the registrar is satisfied that the ship retains a British connection and that he would not refuse to register the ship.
  - (3) If an application under sub-paragraph (2) above is granted by the registrar, the registrar shall register the bill of sale in the prescribed manner.
  - (4) Bills of sale shall be registered in the order in which they are produced to the registrar for the purposes of registration.
- 3 (1) Where a registered ship, or a share in a registered ship, is transmitted to any person by any lawful means other than a transfer under paragraph 2 above and the ship continues to have a British connection, that person shall not be registered as owner of the ship or share unless—
    - (a) he has made the prescribed application to the registrar; and
    - (b) the registrar is satisfied that the ship retains a British connection and that he would not refuse to register the ship.

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- (2) If an application under sub-paragraph (1) is granted by the registrar, the registrar shall cause the applicant's name to be registered as owner of the ship or share.
- 4 (1) Where the property in a registered ship or share in a registered ship is transmitted to any person by any lawful means other than a transfer under paragraph 2 above, but as a result the ship no longer has a British connection, the High Court or in Scotland the Court of Session may, on application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, shall be paid to that person or otherwise as the court direct.
- (2) The court may require any evidence in support of the application they think requisite, and may make the order on any terms and conditions they think just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.
- (3) Every such application must be made within the period of 28 days beginning with the date of the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding one year) as the court may allow.
- (4) If—
- (a) such an application is not made within the time allowed by or under sub-paragraph (3) above; or
  - (b) the court refuse an order for sale,
- the ship or share transmitted shall be liable to forfeiture.
- 5 (1) Where any court (whether under paragraph 4 above or otherwise) order the sale of any registered ship or share in a registered ship, the order of the court shall contain a declaration vesting in some named person the right to transfer the ship or share.
- (2) The person so named shall be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner of the ship or share.
- (3) The registrar shall deal with any application relating to the transfer of the ship or share made by the person so named as if that person were the registered owner.
- 6 (1) The High Court or in Scotland the Court of Session may, if they think fit (without prejudice to the exercise of any other power), on the application of any interested person, make an order prohibiting for a specified time any dealing with a registered ship or share in a registered ship.
- (2) The court may make the order on any terms or conditions they think just, or may refuse to make the order, or may discharge the order when made (with or without costs or, in Scotland, expenses) and generally may act in the case as the justice of the case requires.
- (3) The order, when a copy is served on the registrar, shall be binding on him whether or not he was made a party to the proceedings.

#### *Mortgages of registered ships*

- 7 (1) A registered ship, or share in a registered ship, may be made a security for the repayment of a loan or the discharge of any other obligation.
- (2) The instrument creating any such security (referred to in the following provisions of this Schedule as a "mortgage") shall be in the form prescribed by or approved under registration regulations.

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- (3) Where a mortgage executed in accordance with sub-paragraph (2) above is produced to the registrar, he shall register the mortgage in the prescribed manner.
- (4) Mortgages shall be registered in the order in which they are produced to the registrar for the purposes of registration.

#### *Priority of registered mortgages*

- 8 (1) Where two or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves shall, subject to sub-paragraph (2) below, be determined by the order in which the mortgages were registered (and not by reference to any other matter).
- (2) Registration regulations may provide for the giving to the registrar by intending mortgagees of “priority notices” in a form prescribed by or approved under the regulations which, when recorded in the register, determine the priority of the interest to which the notice relates.

#### *Registered mortgagee’s power of sale*

- 9 (1) Subject to sub-paragraph (2) below, every registered mortgagee shall have power, if the mortgage money or any part of it is due, to sell the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money.
- (2) Where two or more mortgagees are registered in respect of the same ship or share, a subsequent mortgagee shall not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

#### *Protection of registered mortgagees*

- 10 Where a ship or share is subject to a registered mortgage then—
  - (a) except so far as may be necessary for making the ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be treated as owner of the ship or share; and
  - (b) the mortgagor shall be treated as not having ceased to be owner of the ship or share.

#### *Transfer of registered mortgage*

- 11 (1) A registered mortgage may be transferred by an instrument made in the form prescribed by or approved under registration regulations.
- (2) Where any such instrument is produced to the registrar, the registrar shall register the transferee in the prescribed manner.

#### *Transmission of registered mortgage by operation of law*

- 12 Where the interest of a mortgagee in a registered mortgage is transmitted to any person by any lawful means other than by a transfer under paragraph 11 above, the registrar shall, on production of the prescribed evidence, cause the name of that person to be entered in the register as mortgagee of the ship or share in question.

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### *Discharge of registered mortgage*

- 13 Where a registered mortgage has been discharged, the registrar shall, on production of the mortgage deed and such evidence of the discharge of the mortgage as may be prescribed, cause an entry to be made in the register to the effect that the mortgage has been discharged.

### *Definitions*

- 14 In this Schedule—  
“mortgage” shall be construed in accordance with paragraph 7(2) above;  
“prescribed” means prescribed in registration regulations; and  
“registered mortgage” means a mortgage registered under paragraph 7(3) above.

## SCHEDULE 2

Section 88.

### REGULATIONS RELATING TO SUBMERSIBLE AND SUPPORTING APPARATUS

- 1 (1) In this Schedule “regulations” means regulations made under section 88 and “prescribed” means prescribed by regulations.  
(2) Nothing in this Schedule shall be taken to prejudice the generality of section 88.

### *Registration of submersible apparatus*

- 2 Regulations made by virtue of section 88(2)(e) of this Act may make provision—  
(a) for all matters relevant to the maintenance of a register of submersible apparatus,  
(b) without prejudice to sub-paragraph (a) above, for the period for which any registration or exemption is to remain effective without renewal, the alteration or cancellation in any prescribed circumstances of registration or exemption or of any conditions attached thereto, the person by whom and manner in which applications in connection with any registration or exemption are to be made, and information and evidence to be furnished in connection with any such application,  
(c) for the marking or other means of identification of any submersible apparatus,  
(d) for the issue of certificates of registration or exemption, and the custody, surrender, production or display of the certificates or copies of them,  
(e) for matters arising out of the termination of any registration or exemption, or any conditions attached thereto.

### *Offences*

- 3 (1) Subject to sub-paragraph (2) below, regulations—  
(a) may provide for the creation of offences and for their punishment on summary conviction or on conviction on indictment, and  
(b) may afford, in respect of any description of offence created by the regulations, such defence (if any) as may be prescribed.

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- (2) The punishment for an offence created by regulations shall be—
- (a) on summary conviction, a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, imprisonment for a term not exceeding two years, or a fine, or both,
- but without prejudice to any further restriction contained in the regulations on the punishments which can be awarded and without prejudice to the exclusion by the regulations of proceedings on indictment.

#### *Exemptions from regulations*

- 4 (1) The operation of any regulations may be excluded in whole or in part in relation to any class or description of submersible or supporting apparatus by regulations, or in relation to any particular apparatus by the direction of the Secretary of State given in such manner as he thinks appropriate.
- (2) Any exemption or exclusion by regulations or by directions of the Secretary of State under this paragraph may be made subject to the imposition of conditions specified by the regulations or directions.
- (3) Where, in pursuance of this paragraph, a person is exempted or excluded from the requirements of the provisions of regulations but subject to a condition, and the condition is not observed, the exemption or exclusion shall not have effect, and accordingly proceedings may be brought in respect of any offence created by the regulations.

#### *General*

- 5 Regulations—
- (a) may provide for their operation anywhere outside the United Kingdom and for their application to persons, whether or not Commonwealth citizens, and to companies, whether or not incorporated under the law of any part of the United Kingdom;
  - (b) may provide that in any proceedings for an offence under the regulations (other than proceedings to which sub-paragraph (c) below applies) an averment in any process of the fact that anything was done or situated within United Kingdom waters shall, until the contrary is proved, be sufficient evidence of that fact as stated in the averment;
  - (c) may provide that in any proceedings in Scotland for an offence under the regulations a statement in any complaint or indictment of any such fact as is mentioned in sub-paragraph (b) above shall, until the contrary is proved, be sufficient evidence of the fact as so stated;
  - (d) may provide that proceedings for an offence under the regulations may be taken, and the offence be treated for all incidental purposes as having been committed, in any place in the United Kingdom;
  - (e) may provide for any provisions of Part XI relating to inquiries and investigations into marine accidents to apply (with such modifications as may be specified) in relation to accidents involving any submersible apparatus which is not a ship as they apply to ships;
  - (f) may provide that specified provisions of any enactment (other than section 88 and this Schedule) shall, in such circumstances as may be

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- prescribed, not have effect in relation to such class or description of, or to such particular, submersible or supporting apparatus as may be prescribed;
- (g) may make different provision for different classes or descriptions of submersible or supporting apparatus and for different circumstances;
  - (h) may contain such supplemental and incidental provisions as appear to the Secretary of State to be expedient.

### <sup>F1</sup>SCHEDULE 3

#### Textual Amendments

**F1** Sch. 3 (para 1-31) repealed (12.10.1998) by 1998/2441, art. 3(1)(d)

### <sup>F2</sup>SCHEDULE 3A

#### SAFETY DIRECTIONS

#### Textual Amendments

**F2** Sch. 3A inserted (10.9.2003) by [Marine Safety Act 2003 \(c. 16\)](#), s. 4, [Sch. 1](#)

#### *Direction following accident: person in control of ship*

- 1 (1) The Secretary of State may give a direction under this paragraph in respect of a ship if in his opinion—
- (a) an accident has occurred to or in the ship,
  - (b) the accident has created a risk to safety or a risk of pollution by a hazardous substance, and
  - (c) the direction is necessary to remove or reduce the risk.
- (2) The direction may be given to—
- (a) the owner of the ship,
  - (b) a person in possession of the ship,
  - (c) the master of the ship,
  - (d) a pilot of the ship,
  - (da) <sup>F3</sup>the owner of a hazardous substance in the ship,
  - (e) a salvor in possession of the ship,
  - (f) a person who is the servant or agent of a salvor in possession of the ship and who is in charge of the salvage operation, or
  - (g) where the ship is in, or has been directed to move into, waters which are regulated or managed by a harbour authority, the harbour authority or the harbour master.

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- (3) The direction may require the person to whom it is given to take or refrain from taking any specified action in relation to—
- (a) the ship;
  - (b) anything which is or was in the ship;
  - (c) anything which forms or formed part of the ship;
  - (d) anything which is or was being towed by the ship;
  - (e) a person on the ship.
- (4) In particular, the direction may require a person to ensure—
- (a) that a ship or other thing is moved or not moved;
  - (b) that a ship or other thing is moved or not moved to or from a specified place or area or over a specified route;
  - (c) that cargo is or is not unloaded or discharged;
  - (d) that a substance is or is not unloaded or discharged;
  - (e) that specified salvage measures are taken or not taken;
  - (f) that a person is put ashore or on board a ship.

#### Textual Amendments

- F3** Sch. 3A para. 1(2)(da) inserted (20.9.2004) by [The Merchant Shipping \(Vessel Traffic Monitoring and Reporting Requirements\) Regulations 2004 \(S.I. 2004/2110\)](#), **reg. 22(1)**

#### *Direction following accident: person in control of land*

- 2 (1) The Secretary of State may give a direction under this paragraph in respect of a ship if in his opinion—
- (a) an accident has occurred to or in the ship,
  - (b) the accident has created a risk to safety or a risk of pollution by a hazardous substance, and
  - (c) the direction is necessary to remove or reduce the risk.
- (2) The direction may be given to a person in charge of coastal land or premises.
- (3) For the purposes of this paragraph—
- (a) a person is in charge of land or premises if he is wholly or partly able to control the use made of the land or premises, and
  - (b) “coastal” means adjacent to or accessible from United Kingdom waters over which the public are permitted to navigate.
- (4) The direction may require the person to whom it is given to grant access or facilities to or in relation to the ship or any person or thing which is or was on the ship.
- (5) In particular, a direction may require a person—
- (a) to permit persons to land;
  - (b) to make facilities available for the undertaking of repairs or other works;
  - (c) to make facilities available for the landing, storage and disposal of cargo or of other things.
- (6) A direction under this paragraph—
- (a) must be given in writing, or

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- (b) where it is not reasonably practicable to give it in writing, must be confirmed in writing as soon as is reasonably practicable.

*Other direction*

- 3 (1) The Secretary of State may give a direction in respect of a ship under this paragraph if in his opinion it is necessary for the purpose of—
  - (a) securing the safety of the ship or of other ships;
  - (b) securing the safety of persons or property;
  - (c) preventing or reducing pollution.
- (2) The direction may be given to—
  - (a) the owner of the ship;
  - (b) a person in possession of the ship;
  - (c) the master of the ship.
- (3) The direction may require the person to whom it is given to ensure that—
  - (a) the ship is moved or not moved from a specified place or area in United Kingdom waters;
  - (b) the ship is moved or not moved to a specified place or area in United Kingdom waters;
  - (c) the ship is moved or not moved over a specified route in United Kingdom waters;
  - (d) the ship is removed from United Kingdom waters.

*Action in lieu of direction*

- 4 (1) This paragraph applies where the Secretary of State thinks—
  - (a) that circumstances exist which would entitle him to give a direction under this Schedule, but
  - (b) that the giving of a direction would not be likely to achieve a sufficient result.
- (2) This paragraph also applies where—
  - (a) the Secretary of State has given a direction under this Schedule, but
  - (b) in his opinion the direction has not achieved a sufficient result.
- (3) The Secretary of State may take such action as appears to him necessary or expedient for the purpose for which the direction could have been given or was given.
- (4) In particular, the Secretary of State may—
  - (a) authorise a person to enter land or make use of facilities;
  - (b) do or authorise a person to do anything which the Secretary of State could require a person to do by a direction;
  - (c) authorise a person to assume control of a ship;
  - (d) make arrangements or authorise the making of arrangements for the sinking or destruction of a ship.

*Enforcement*

- 5 A person to whom a direction is given under this Schedule—
  - (a) must comply with the direction, and



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- (b) must try to comply with the direction in a manner which avoids risk to human life.

#### *Enforcement*

- 6 (1) A person commits an offence if he contravenes paragraph 5(a).
- (2) It is a defence for a person charged with an offence under sub-paragraph (1) to prove—
- (a) that he tried as hard as he could to comply with the relevant direction, or
  - (b) that he reasonably believed that compliance with the direction would involve a serious risk to human life.

#### *Enforcement*

- 7 A person commits an offence if he intentionally obstructs a person who is—
- (a) acting on behalf of the Secretary of State in connection with the giving of a direction under this Schedule,
  - (b) complying with a direction under this Schedule, or
  - (c) acting by virtue of paragraph 4.

#### *Enforcement*

- 8 A person guilty of an offence under paragraph 6 or 7 shall be liable<sup>F4</sup>—  
[<sup>F4</sup>on summary conviction, or on conviction on indictment, to a fine].

#### **Textual Amendments**

- F4** Words in *Sch. 3A para. 8* substituted (E.W.) (12.3.2015) by *The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664)*, reg. 1(1), *Sch. 4 para. 27(16)* (with reg. 5(1))

#### *Enforcement*

- 9 (1) Proceedings for an offence under paragraph 6 or 7 may be brought in England and Wales only—
- (a) by or with the consent of the Attorney General, or
  - (b) by or with the authority of the Secretary of State.
- (2) Proceedings for an offence under paragraph 6 or 7 may be brought in Northern Ireland only—
- (a) by or with the consent of the Attorney General for Northern Ireland, or
  - (b) by or with the authority of the Secretary of State.

#### *Variation and revocation*

- 10 (1) A direction under this Schedule may be varied or revoked by a further direction.
- (2) If the Secretary of State thinks that a direction under this Schedule is wholly or partly no longer necessary for the purpose for which it was given, he shall vary or revoke the direction as soon as is reasonably practicable.

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- (3) Where the Secretary of State has given a direction to a person under this Schedule he shall consider any representations about varying or revoking the direction which are made to him by that person.

*Procedure*

- [<sup>F5</sup>11 Where the Secretary of State—
- (a) proposes to give a direction under this Schedule to a company or other body, and
  - (b) thinks that section 1139 of the Companies Act 2006 (service of documents on company) does not apply,
- the direction may be served in such manner as the Secretary of State thinks most suitable.]

**Textual Amendments**

- F5** Sch. 3A para. 11 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(5)** (with art. 10)

*Procedure*

- 12 A person acting on behalf of the Secretary of State may—
- (a) board a ship for the purpose of serving a direction under this Schedule;
  - (b) enter land or premises for that purpose.

*Procedure*

- 13 Before giving a direction under paragraph 2 in respect of land or premises the Secretary of State shall, unless he thinks that it is not reasonably practicable—
- (a) give the person to whom he proposes to give the direction an opportunity to make representations, and
  - (b) consider any representations made.

*Unreasonable loss and damage*

- 14 (1) This paragraph applies where action taken in accordance with a direction under this Schedule or by virtue of paragraph 4 (“remedial action”)—
- (a) was not reasonably necessary for the purpose for which the direction was given, or
  - (b) caused loss or damage which could not be justified by reference to that purpose.
- (2) The Secretary of State shall pay compensation to any person who—
- (a) suffered loss or damage as a result of the remedial action (whether it was taken by him or someone else), and
  - (b) applies to the Secretary of State for compensation.
- (3) In considering what is reasonably necessary or justifiable for the purpose of sub-paragraph (1) account shall be taken of—

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- (a) the extent of the risk to safety or threat of pollution which the direction was intended to address,
- (b) the likelihood of the remedial action being effective, and
- (c) the extent of the loss or damage caused by the remedial action.

#### *Expenses*

- 15 (1) This paragraph applies where—
- (a) a direction is given to a person in respect of a ship under paragraph 2, or
  - (b) the Secretary of State relies on paragraph 4 to take or authorise action in respect of a ship in lieu of a direction under paragraph 2.
- (2) The person to whom a direction is given shall be entitled to recover the costs of his compliance with the direction from the owner of the ship.
- (3) A person in charge of coastal land or premises shall be entitled to recover from the owner of the ship costs incurred by him as a result of action taken by virtue of paragraph 4 in relation to that land or premises.
- (4) The Secretary of State may make payments to a person on account of sums recoverable by that person under sub-paragraph (2) or (3).
- (5) The Secretary of State shall be entitled to recover from the owner of the ship—
- (a) costs incurred in connection with the giving of a direction;
  - (b) costs incurred in connection with action taken under paragraph 4;
  - (c) costs incurred under sub-paragraph (4).
- (6) A right under sub-paragraph (2), (3) or (5) permits the recovery of costs only in so far as they are not recoverable—
- (a) under another enactment,
  - (b) by virtue of an agreement, or
  - (c) under the law relating to salvage.

#### *Jurisdiction*

- 16 The Admiralty jurisdiction of the High Court and of the Court of Session shall include jurisdiction to hear and determine any claim arising under paragraph 14 or 15.

#### *Ships to which Schedule applies*

- 17 A direction under paragraph 1 or 2, in so far as it relates to a risk of pollution, may have effect in respect of a ship only if it—
- (a) is a United Kingdom ship, or
  - (b) is in United Kingdom waters or an area of the sea specified under section 129(2)(b).

#### *Ships to which Schedule applies*

- 18 (1) Her Majesty may by Order in Council provide that a direction under paragraph 1 or 2, in so far as it relates to a risk of pollution, may have effect in respect of a ship which—

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- (a) is not a United Kingdom ship, and
- (b) is not in United Kingdom waters or an area of the sea specified under section 129(2)(b).

(2) An Order in Council under this paragraph—

- (a) may be expressed to apply generally or only in specified circumstances;
- (b) may make different provision for different circumstances;
- (c) may provide for this Schedule to have effect in cases to which the Order in Council applies with specified modifications;
- (d) may contain transitional or consequential provision (including provision amending an enactment).

*Ships to which Schedule applies*

19 A direction under paragraph 1 or 2, in so far as it relates to a risk to safety, may have effect in respect of a ship only if it is in United Kingdom waters and—

- (a) it is not a qualifying foreign ship, or
- (b) it is a qualifying foreign ship which in the Secretary of State’s opinion is exercising neither the right of innocent passage nor the right of transit passage through straits used for international navigation.

*Ships to which Schedule applies*

20 (1) A direction under paragraph 3 may have effect in respect of a ship only if it is in United Kingdom waters and—

- (a) it is not a qualifying foreign ship, or
- (b) it is a qualifying foreign ship which in the Secretary of State’s opinion is exercising neither the right of innocent passage nor the right of transit passage through straits used for international navigation.

(2) A direction may not be given under paragraph 3(3)(d) in respect of a United Kingdom ship.

*Ships to which Schedule applies*

21 A direction may not be given under paragraph 1(2)(a) to (d) or 3 in respect of—

- (a) a ship of Her Majesty’s Navy, or
- (b) a Government ship.

*Interpretation*

22 (1) In this Schedule—

“accident” means a collision of ships, a stranding, another incident of navigation or another event (whether on board a ship or not) which results in material damage to a ship or its cargo or in an imminent threat of material damage to a ship or its cargo,

“action” includes omission,

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament,

“harbour authority” has the meaning given by section 151(1),

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“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 Schedule in relation to the harbour,

“hazardous substance” has the meaning given by sub-paragraph (2),

“owner”, in relation to the ship to or in which an accident has occurred, includes its owner at the time of the accident,

“pilot” means a person who does not belong to a ship but who has the conduct of it,

“pollution” means significant pollution in the United Kingdom, United Kingdom waters or an area of the sea specified under section 129(2)(b), and

“risk to safety” means a risk to the safety of persons, property or anything navigating in or using United Kingdom waters.

(2) In this Schedule “hazardous substance” means—

- (a) oil (within the meaning given by section 151(1)),
- (b) any other substance which creates a hazard to human health, harms living resources or marine life, damages amenities or interferes with lawful use of the sea, and
- (c) any substance prescribed by order of the Secretary of State.

#### *Savings*

23 Nothing in this Schedule shall be taken to prejudice any right or power of Her Majesty’s Government.

#### *Savings*

24 (1) This paragraph applies where action is taken—

- (a) in respect of a ship which is under arrest or in respect of anything in a ship which is under arrest, and
- (b) in accordance with a direction under this Schedule or by virtue of paragraph 4.

(2) The action shall not—

- (a) be treated as a contempt of court, or
- (b) give rise to civil liability on the part of the Admiralty Marshal (including the Admiralty Marshal of the <sup>F6</sup>Court of Judicature] in Northern Ireland).]

#### **Textual Amendments**

**F6** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 6](#); [S.I. 2009/1604](#), art. 2(d)

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## SCHEDULE 4

### PREVENTION OF OIL POLLUTION: TRANSITORY PROVISIONS

#### CHAPTER III

##### LIABILITY FOR OIL POLLUTION

- 152 (1) In this Chapter—
- “the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969;
  - “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.

##### *Liability*

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

- 153 (1) Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by the ship (whether as part of the cargo or otherwise) is discharged or escapes from the ship, the owner of the ship shall be liable, (except as otherwise provided by this Chapter),—
- (a) for any damage caused 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 reducing any such damage in the territory of the United Kingdom; and
  - (c) for any damage caused in the territory of the United Kingdom by any measures so taken.
- (2) Where a person incurs a liability under subsection (1) above he shall also be liable for any damage or cost for which he would be liable under that subsection if the references therein to the territory of the United Kingdom included the territory of any other Liability Convention country.
- (3) Where persistent oil is discharged or escapes from two or more ships and—
- (a) a liability is incurred under this section by the owner of each of them; 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.

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- (4) For the purposes of this Chapter, 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.
- (5) The <sup>M1</sup>Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the <sup>M2</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.

#### Marginal Citations

- M1** 1945 c.28.  
**M2** 1948 c. 23 (N.I.)

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

- 154 (1) Where, as a result of any occurrence, any persistent 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—
- for any damage caused outside the ship in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
  - 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
  - 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 persistent oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
- 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
  - 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—
- as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
  - 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.

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(4) The <sup>M3</sup>Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the <sup>M4</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.

**Marginal Citations**

**M3** 1945 c.28.

**M4** 1948 c. 23 (N.I.).

*Exceptions from liability under section 153.*

- 155 The owner of a ship from which persistent oil has been discharged or has escaped shall not incur any liability under section 153 if he proves that the discharge or escape—
- (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 left undone 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.

*Exceptions from liability under section 154.*

- 155A No liability shall be incurred by the owner of a ship under section 154 by reason of any discharge or escape of persistent 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.

*Restriction of liability for oil pollution.*

- 156 Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by the ship is discharged or escapes then, whether or not the owner incurs a liability under section 153—
- (a) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned therein; and
  - (b) no servant or agent of the owner nor any person performing salvage operations with the agreement of the owner shall be liable for any such damage or cost.



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*Restriction of liability for oil pollution from ship within section 154.*

- 156A (1) Where, as a result of any occurrence—
- (a) any persistent oil is discharged or escapes from a ship 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 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 by him 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) of this section 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 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 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.

*Limitation of liability*

*Limitation of liability under section 153.*

- 157 (1) Where the owner of a ship incurs liability under section 153 by reason of a discharge or escape which has occurred without his actual fault or privity then—
- (a) he may limit that liability in accordance with the provisions of this Chapter, and
  - (b) if he does so, his liability (that is to say, the aggregate of his liabilities under section 153 resulting from the discharge or escape) shall not exceed 133 special drawing rights for each ton of the ship's tonnage nor (where that tonnage would result in a greater amount) 14 million special drawing rights.
- (2) For the purposes of this section the tonnage of a ship shall be ascertained as follows—
- (a) where the registered tonnage of the ship has been or can be ascertained in accordance with the tonnage regulations, the ship's tonnage shall be the registered tonnage of the ship as so ascertained but without making

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- any deduction required by those regulations of any tonnage allowance for propelling machinery space;
- (b) where the ship is of a description with respect to which no provision is for the time being made by the tonnage regulations, the tonnage of the ship shall be taken to be 40 per cent of the weight (expressed in tons of 2,240 lbs) of oil which the ship is capable of carrying;
  - (c) where the tonnage of the ship cannot be ascertained in accordance with either paragraph (a) or paragraph (b) above, a surveyor of ships shall, if so directed by the court, certify what, on the evidence specified in the direction, would in his opinion be the tonnage of the ship as ascertained in accordance with paragraph (a), or (as the case may be) paragraph (b), above if the ship could be duly measured for the purpose; and the tonnage stated in his certificate shall be taken to be the tonnage of the ship.

*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.
- (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.

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- (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.

*Restriction on enforcement after establishment of limitation fund.*

- 159 (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);
- 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.

*Concurrent liabilities of owners and others.*

- 160 Where, as a result of any discharge or escape of persistent oil from a ship, 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) 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.

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*Establishment of limitation fund outside United Kingdom.*

- 161 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.

*Extinguishment of claims.*

- 162 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 by reason of which the liability was incurred.

*Compulsory insurance*

*Compulsory insurance against liability for pollution.*

- 163 (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 persistent 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 of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).

For the purposes of this subsection the reference in Article VII to Article V of the Liability Convention shall be construed as a reference to Article V as amended by Article II of the protocol dated 19th November 1976 to the Liability Convention.

- (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 a certificate recognised for the purposes of this paragraph by regulations made under this section.
- (4) The Secretary of State may by regulations provide that certificates in respect of ships registered in any, or any specified, country which is not a Liability Convention country shall, in such circumstances as may be specified in the regulations, be recognised for the purposes of subsection (3)(c) above if issued by or under the authority of the government of the country designated in the regulations for that

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- purpose; and the country that may be so designated may be either or both of the following, that is to say—
- (a) the country in which the ship is registered; and
  - (b) any country specified in the regulations for the purposes of this paragraph.
- (5) 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.
- (6) 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—
- (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to a fine.
- (7) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (5) above, the master shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (8) If a ship attempts to leave a port in the United Kingdom in contravention of this section the ship may be detained.

*Issue of certificate by Secretary of State.*

- 164 (1) Subject to subsection (2) below, if the Secretary of State is satisfied, on an 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.

For the purposes of this subsection the reference in Article VII to Article V of the Liability Convention shall be construed as a reference to Article V as amended by Article II of the protocol dated 19th November 1976 to the Liability Convention.

- (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 certificates.
- (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.

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*Rights of third parties against insurers.*

- 165 (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 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 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 occurred without the owner’s fault or privity.
- (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>M5</sup>Third Parties (Rights against Insurers) Act 1930 and the <sup>M6</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.

**Marginal Citations**

**M5** 1930 c.25.

**M6** 1930 c.9 (N.I.)

*Supplementary*

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

- 166 (1) Paragraph 1(1)(d) of Schedule 1 to the <sup>M7</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 any persistent 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 reduce such damage in that territory, no court in the United Kingdom shall entertain an action (whether in rem or in personam) to enforce a claim arising from—
- (a) any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape;
  - (b) any cost incurred in taking measures to prevent or reduce such damage in the territory of another Liability Convention country; or
  - (c) any damage caused by any measures so taken.

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- (3) Part I of the <sup>M8</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 section 4(2) and (3) of that Act.

**Marginal Citations**

**M7** 1956 c.46

**M8** 1933 c. 13.

*Government ships.*

- 167 (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 Liability Convention as amended by Article II of the protocol dated 19th November 1976 to the Liability 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.

*Limitation of liability under section 154.*

- 168 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 Liability Convention in Part I of Schedule 7.

*Saving for recourse actions.*

- 169 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.

*Interpretation.*

- 170 (1) In this Chapter—  
“the court” means the High Court or the Court of Session;

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“damage” includes loss;

“owner”, in relation to a registered ship, means the person registered as its owner, 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; and

“relevant threat of contamination” shall be construed in accordance with section 154(2).

- (2) In relation to any damage or cost resulting from the discharge or escape of any oil carried in 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 payment to the Accountant of Court for Consignation (within the meaning of the <sup>M9</sup>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.

#### Marginal Citations

**M9** 1895 c. 19.

## CHAPTER IV

### INTERNATIONAL OIL POLLUTION

#### COMPENSATION FUND

##### *Preliminary*

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

- 172 (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 opened for signature in Brussels on 18th December 1971;
  - (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.



*Status: Point in time view as at 01/10/2017.*

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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.

### *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—
- (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 Assembly of the Fund under articles 11 and 12 of the Fund Convention (as amended by article III of the protocol dated 19th November 1976 to that 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—

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- (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>M10</sup>Companies Act 1985 (or for companies in Northern Ireland Article 4 of the <sup>M11</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.

#### Marginal Citations

**M10** 1985 c. 6

**M11** S.I. 1986/1032 (NI 6).

#### *Power to obtain information.*

- 174 (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.

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- (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.
- (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 intentionally 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.

#### *Compensation for persons suffering pollution damage*

#### *Liability of the Fund.*

- 175 (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 causing the damage—
    - (i) resulted from an exceptional, inevitable and irresistible phenomenon, or
    - (ii) was due wholly to anything done or left undone 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

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- (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
- (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) Subject to subsection (9) below, if the Fund proves that the pollution damage resulted wholly or partly—
- (a) from an act or omission done with intent to cause damage by the person who suffered the damage, or
- (b) from the negligence of that person,

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the Fund may be exonerated wholly or partly from its obligation to pay compensation to that person.

- (9) Subsection (8) above does not apply to a claim in respect of expenses or sacrifices made voluntarily to prevent or minimise pollution damage.
- (10) Where the liability under section 153 is limited to any extent by subsection (5) of that section, the Fund shall be exonerated to the same extent.

*Limitation of Fund's liability under section 175.*

- 176 (1) The Fund's liability under section 175 shall be subject to the limits imposed by paragraphs 4, 5 and 6 of article 4 of the Fund Convention (as amended by Article III of the protocol dated 19th November 1976 to that Convention) which impose an overall limit on the liabilities of the owner and of the Fund, and the text of which is set out in Part II of Schedule 5.
- (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 be received in evidence without proof of the official position or handwriting of the person signing the certificate.
- (3) For the purpose of giving effect to paragraphs 4, 5 and 6 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 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 judgment is given; 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 so fixed for the day on which the judgment was given; or
  - (b) that no sum has been 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 judgment was given,
- 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.

### *Indemnification of shipowners*

#### *Indemnification where damage is caused by ship registered in Fund Convention country.*

- 176A (1) Where a liability is incurred under section 153 in respect of a ship registered in a Fund Convention country the Fund shall indemnify the owner and his guarantor for that portion of the aggregate amount of the liability which—
- (a) is in excess of an amount equivalent to 100 special drawing rights for each ton of the ship's tonnage or of an amount of 8,333,000 special drawing rights, whichever is the less, and
  - (b) is not in excess of an amount equivalent to 133 special drawing rights for each ton of the said tonnage or an amount of 14 million special drawing rights, whichever is the less.
- (2) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country (but is a country in respect of which the Liability Convention is in force), and either—
- (a) the incident has caused pollution damage in the territory of the United Kingdom (as well as in the territory of that other country); or
  - (b) the headquarters of the Fund is for the time being in the United Kingdom, subsection (1) above shall apply with the omission of the words “under section 153”.
- (3) The Fund shall not incur an obligation under this section where the pollution damage resulted from the wilful misconduct of the owner.
- (4) In proceedings to enforce the Fund's obligation under this section the court may exonerate the Fund wholly or partly if it is proved that, as a result of the actual fault or privity of the owner—
- (a) the ship did not comply with such requirements as the Secretary of State may by order prescribe for the purposes of this section, and
  - (b) the occurrence or damage was caused wholly or partly by that non-compliance.
- (5) The requirements referred to in subsection (4) above are such requirements as appear to the Secretary of State appropriate to implement the provisions of—
- (a) Article 5(3) of the Fund Convention (marine safety conventions), and
  - (b) Article 5(4) of the Fund Convention (which enables the Assembly of the Fund to substitute new conventions).
- (6) An order made under subsection (4) above may contain such transitional and other supplemental provisions as appear to the Secretary of State to be expedient.
- (7) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise the pollution damage shall be treated as included in the owner's liability for the purposes of this section.
- (8) For the purpose of converting into sterling the amount in special drawing rights adjudged to be payable by the Fund by way of indemnity in such proceedings as are

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mentioned in subsection (4) above, subsections (4) to (6) of section 176 shall have effect—

- (a) if the liability in question has been limited in pursuance of section 158, as if—
  - (i) for the reference in the said subsection (4) to the amount there mentioned there were substituted a reference to the amount adjudged as aforesaid, and
  - (ii) for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the determination of the limit was made in pursuance of the said section 158; and
- (b) if the liability in question has not been so limited, with the modification made by paragraph (a)(i) of this subsection and as if for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the said amount was so adjudged.

#### *Supplemental*

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

- 177 (1) Paragraph 1(1)(d) of Schedule 1 to the <sup>M12</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.
  - (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>M13</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 or 176A; and in its application to such a judgment the said Part I shall have effect with the omission of sections 4(2) and (3) of the Act of 1933.
  - (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 II of Schedule 5) or that it is to be reduced to a specified amount; and

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- (b) in the latter case, the judgment shall be enforceable only for the reduced amount.

**Marginal Citations**

**M12** 1956 c.46

**M13** 1933 c. 13.

*Extinguishment of claims.*

- 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 by reason of which the claim against the Fund arose.
- (3) Notwithstanding the preceding provisions of this section, a person’s right to bring an action under the section 176A shall not be extinguished before six months from the date when that person first acquired knowledge of the bringing of an action against him under Chapter III of this Part, or under the corresponding provisions of the law of any country outside the United Kingdom giving effect to the Liability Convention.

*Subrogation.*

- 179 (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) The right of the Fund under subsection (1) above is subject to any obligation of the Fund under section 176A above to indemnify the owner or guarantor for any part of the liability on which he has defaulted.
  - (3) 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.

*Interpretation.*

- 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 carried by the ship;



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

“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 damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever the escape or discharge may occur, and includes the cost of preventive measures and further damage caused by preventive measures;

“preventive measures” means any reasonable measures taken by any person after the occurrence to prevent or minimise pollution damage; and

“ship” means any sea-going ship and any seaborne craft of any type whatsoever carrying oil in bulk as cargo.

- (2) References in this Chapter to the territory of any country include the territorial sea of that country, and references to pollution damage in the United Kingdom shall be construed accordingly.
- (3) For the purposes of this Chapter a ship’s tonnage shall be the net tonnage of the ship with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage.

If the ship cannot be measured in accordance with the normal rules, its tonnage shall be deemed to be 40 per cent of the weight in tons (of 2,240 lbs) of oil which the ship is capable of carrying.

- (4) For the purposes of this Chapter, 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.

## SCHEDULE 5

Section 176.

### OVERALL LIMIT ON LIABILITY OF FUND

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

- C1** Sch. 5 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to British Antarctic Territory (30.11.1997) by [S.I. 1997/2582, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to Falkland Islands (30.11.1997) by [S.I. 1997/2584, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to Pitcairn, Henderson, Ducie and Oeno Islands (30.11.1997) by [S.I. 1997/2585, art. 2, Sch.](#)  
Sch. 5 extended (with modifications) to Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587, art. 2, Sch.](#)

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Sch. 5 extended (with modifications) to South Georgia and South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, **Sch.**

Sch. 5 extended (with modifications) to Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, **Sch.**

Sch. 5 extended (with modifications) to Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, **Sch.**

Sch. 5 extended (with modifications) to Monserrat (20.5.1998) by S.I. 1998/1262, art. 2, **Sch.**

Sch. 5 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, **Sch.**

## PART I

### PERMANENT PROVISION

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

- C2** Sch. 5 Pt I extended (with modifications) to Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, **Sch.**
- Sch. Pt. I extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, **Sch. 1**
- Sch. 5 Pt.I extended (with modifications) to Guernsey (11.3.1998) by 1998/260, arts. 2, 3, **Sch.**

#### Article 4 — paragraphs 4 and 5

- 4 (a) Except as otherwise provided in sub-paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed [<sup>F7</sup>203 million] units of account.
- (b) Except as otherwise provided in sub-paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed [<sup>F8</sup>203 million] units of account.
- (c) The maximum amount of compensation referred to in sub-paragraphs (a) and (c) shall be [<sup>F9</sup>300.74 million] units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.
- (d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.
- (e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.

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#### Textual Amendments

- F7** Words in Sch. 5 Pt. 1 para. 4(a) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), [arts. 1, 2\(3\)\(a\)](#)
- F8** Words in Sch. 5 Pt. 1 para. 4(b) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), [arts. 1, 2\(3\)\(a\)](#)
- F9** Words in Sch. 5 Pt. 1 para. 4(c) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), [arts. 1, 2\(3\)\(b\)](#)

- 5 Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

## PART II

### TRANSITORY PROVISION

#### *Article 4 — paragraphs 4, 5 and 6*

- 4 (a) Except as otherwise provided in sub-paragraph (b) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage caused in the territory of the Contracting States, including any sums in respect of which the Fund is under an obligation to indemnify the owner pursuant to Article 5, paragraph 1, of this Convention, shall not exceed 30 million special drawing rights,
- (b) The aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 30 million special drawing rights.
- 5 Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under the Liability Convention and this Convention shall be the same for all claimants.
- 6 The Assembly of the Fund (hereinafter referred to as “the Assembly”) may, having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to changes in the monetary values, decide that the amount of 30 million special drawing rights referred to in paragraph 4, subparagraph (a) and (b), shall be changed; provided, however, that this amount shall in no case exceed 60 million special drawing rights or be lower than 30 million special drawing rights. The changed amount shall apply to incidents which occur after the date of the decision effecting the change.

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## [<sup>F10</sup>SCHEDULE 5ZA

### SUPPLEMENTARY FUND LIABILITY

#### Textual Amendments

**F10** Sch. 5ZA inserted (8.9.2006) by The Merchant Shipping (Oil Pollution) (Supplementary Fund Protocol) Order 2006 (S.I. 2006/1265), arts. 1(2), 12, Sch.

#### *Article 4—paragraphs 1, 2 and 3*

- 1 The Supplementary Fund shall pay compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for an established claim for such damage under the terms of the 1992 Fund Convention, because the total damage exceeds, or there is a risk that it will exceed, the applicable limit of compensation laid down in article 4, paragraph 4, of the 1992 Fund Convention in respect of any one incident.
- 2 (a) The aggregate amount of compensation payable by the Supplementary Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount together with the amount of compensation actually paid under the 1992 Liability Convention and the 1992 Fund Convention within the scope of application of this Protocol shall not exceed 750 million units of account.
- (b) The amount of 750 million units of account mentioned in paragraph 2(a) shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date determined by the Assembly of the 1992 Fund for conversion of the maximum amount payable under the 1992 Liability and 1992 Fund Conventions.
- 3 Where the amount of established claims against the Supplementary Fund exceeds the aggregate amount of compensation payable under paragraph 2, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Protocol shall be the same for all claimants.

#### *Article 13—paragraph 1*

- 1 Contracting States shall communicate to the Director of the Supplementary Fund information on oil receipts in accordance with article 15 of the 1992 Fund Convention provided, however, that communications made to the Director of the 1992 Fund under article 15, paragraph 2, of the 1992 Fund Convention shall be deemed to have been made also under this Protocol.

#### *Article 15—paragraphs 1, 2 and 3*

- 1 If in a Contracting State there is no person meeting the conditions of article 10, that Contracting State shall for the purposes of this Protocol inform the Director of the Supplementary Fund thereof.
- 2 No compensation shall be paid by the Supplementary Fund for pollution damage in the territory, territorial sea or exclusive economic zone or area determined in accordance with article 3(a)(ii), of this Protocol, of a Contracting State in respect

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of a given incident or for preventive measures, wherever taken, to prevent or minimize such damage, until the obligations to communicate to the Director of the Supplementary Fund according to article 13, paragraph 1 and paragraph 1 of this article have been complied with in respect of that Contracting State for all years prior to the occurrence of that incident. The Assembly shall determine in the Internal Regulations the circumstances under which a Contracting State shall be considered as having failed to comply with its obligations.

- 3 Where compensation has been denied temporarily in accordance with paragraph 2, compensation shall be denied permanently in respect of that incident if the obligations to communicate to the Director of the Supplementary Fund under article 13, paragraph 1 and paragraph 1 of this article, have not been complied with within one year after the Director of the Supplementary Fund has notified the Contracting State of its failure to report.]

## [<sup>F11</sup>SCHEDULE 5A

### Textual Amendments

**F11** Sch. 5A inserted (17.7.1997) by 1997 c. 28, s. 14(2), **Sch. 3**; S.I. 1997/1539, art. 2, **Sch.**

### *Text of International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea*

The States parties to the present Convention,

Conscious of the dangers posed by the world-wide carriage by sea of hazardous and noxious substances,

Convinced of the need to ensure that adequate, prompt and effective compensation is available to persons who suffer damage caused by incidents in connection with the carriage by sea of such substances,

Desiring to adopt uniform international rules and procedures for determining questions of liability and compensation in respect of such damage,

Considering that the economic consequences of damage caused by the carriage by sea of hazardous and noxious substances should be shared by the shipping industry and the cargo interests involved,

Have agreed as follows:

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## CHAPTER I

### GENERAL PROVISIONS

#### DEFINITIONS

##### *Article 1*

For the purposes of this Convention:

1. “Ship” means any seagoing vessel and seaborne craft, of any type whatsoever.
2. “Person” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. “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. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship’s operator, “owner” shall mean such company.
4. “Receiver” means either:
  - (a) the person who physically receives contributing cargo discharged in the ports and terminals of a State Party; provided that if at the time of receipt the person who physically receives the cargo acts as an agent for another who is subject to the jurisdiction of any State Party, then the principal shall be deemed to be the receiver, if the agent discloses the principal to the HNS Fund; or
  - (b) the person in the State Party who in accordance with the national law of that State Party is deemed to be the receiver of contributing cargo discharged in the ports and terminals of a State Party, provided that the total contributing cargo received according to such national law is substantially the same as that which would have been received under (a).
5. “Hazardous and noxious substances” (HNS) means:
  - (a) any substances, materials and articles carried on board a ship as cargo, referred to in (i) to (vii) below:
    - (i) oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
    - (ii) noxious liquid substances carried in bulk referred to in appendix II of Annex II to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and those substances and mixtures provisionally categorized as falling in pollution category A, B, C or D in accordance with regulation 3(4) of the said Annex II;
    - (iii) dangerous liquid substances carried in bulk listed in chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, 1983, as amended, and the dangerous products for which the preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.3 of the Code;

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(iv) dangerous, hazardous and harmful substances, materials and articles in packaged form covered by the International Maritime Dangerous Goods Code, as amended;

(v) liquefied gases as listed in chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, 1983, as amended, and the products for which preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.6 of the Code;

(vi) liquid substances carried in bulk with a flashpoint not exceeding 60°C (measured by a closed cup test);

(vii) solid bulk materials possessing chemical hazards covered by appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended, to the extent that these substances are also subject to the provisions of the International Maritime Dangerous Goods Code when carried in packaged form; and

(b) residues from the previous carriage in bulk of substances referred to in (a)(i) to (iii) and (v) to (vii) above.

6. “Damage” means:

(a) loss of life or personal injury on board or outside the ship carrying the hazardous and noxious substances caused by those substances;

(b) loss of or damage to property outside the ship carrying the hazardous and noxious substances caused by those substances;

(c) loss or damage by contamination of the environment caused by the hazardous and noxious substances, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and

(d) the costs of preventive measures and further loss or damage caused by preventive measures.

Where it is not reasonably possible to separate damage caused by the hazardous and noxious substances from that caused by other factors, all such damage shall be deemed to be caused by the hazardous and noxious substances except if, and to the extent that, the damage caused by other factors is damage of a type referred to in article 4, paragraph 3.

In this paragraph, “caused by those substances” means caused by the hazardous or noxious nature of the substances.

7. “Preventive measures” means any reasonable measures taken by any person after an incident has occurred to prevent or minimize damage.

8. “Incident” means any occurrence or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage.

9. “Carriage by sea” means the period from the time when the hazardous and noxious substances enter any part of the ship’s equipment, on loading, to the time they cease to be present in any part of the ship’s equipment, on discharge. If no ship’s equipment is used, the period begins and ends respectively when the hazardous and noxious substances cross the ship’s rail.

10. “Contributing cargo” means any hazardous and noxious substances which are carried by sea as cargo to a port or terminal in the territory of a State Party and discharged in that State. Cargo in transit which is transferred directly, or through a port or terminal, from one ship to another, either wholly or in part, in the course of carriage from the port or terminal of original loading to

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the port or terminal of final destination shall be considered as contributing cargo only in respect of receipt at the final destination.

11. The “HNS Fund” means the International Hazardous and Noxious Substances Fund established under article 13.

12. “Unit of account” means the Special Drawing Right as defined by the International Monetary Fund.

13. “State of the ship’s registry” means in relation to a registered ship the State of registration of the ship, and in relation to an unregistered ship the State whose flag the ship is entitled to fly.

14. “Terminal” means any site for the storage of hazardous and noxious substances received from waterborne transportation, including any facility situated off-shore and linked by pipeline or otherwise to such site.

15. “Director” means the Director of the HNS Fund.

16. “Organization” means the International Maritime Organization.

17. “Secretary-General” means the Secretary-General of the Organization.

## ANNEXES

### *Article 2*

The Annexes to this Convention shall constitute an integral part of this Convention.

## SCOPE OF APPLICATION

### *Article 3*

This Convention shall apply exclusively:

- (a) to any damage caused in the territory, including the territorial sea, of a State Party;
- (b) to damage by contamination of the environment caused in the exclusive economic zone of a State Party, established in accordance with international law, or, if a State Party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;
- (c) to damage, other than damage by contamination of the environment, caused outside the territory, including the territorial sea, of any State, if this damage has been caused by a substance carried on board a ship registered in a State Party or, in the case of an unregistered ship, on board a ship entitled to fly the flag of a State Party; and
- (d) to preventive measures, wherever taken.



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#### Article 4

1. This Convention shall apply to claims, other than claims arising out of any contract for the carriage of goods and passengers, for damage arising from the carriage of hazardous and noxious substances by sea.
2. This Convention shall not apply to the extent that its provisions are incompatible with those of the applicable law relating to workers' compensation or social security schemes.
3. This Convention shall not apply:
  - (a) to pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended, whether or not compensation is payable in respect of it under that Convention; and
  - (b) to damage caused by a radioactive material of class 7 either in the International Maritime Dangerous Goods Code, as amended, or in appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended.
4. Except as provided in paragraph 5, the provisions of this Convention shall not apply to warships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.
5. A State Party may decide to apply this Convention to its warships or other vessels described in paragraph 4, in which case it shall notify the Secretary-General thereof specifying the terms and conditions of such application.
6. With respect to ships owned by a State Party and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in article 38 and shall waive all defences based on its status as a sovereign State.

#### Article 5

1. A State may, at the time of ratification, acceptance, approval of, or accession to, this Convention, or any time thereafter, declare that this Convention does not apply to ships:
  - (a) which do not exceed 200 gross tonnage; and
  - (b) which carry hazardous and noxious substances only in packaged form; and
  - (c) while they are engaged on voyages between ports or facilities of that State.
2. Where two neighbouring States agree that this Convention does not apply also to ships which are covered by paragraph 1(a) and (b) while engaged on voyages between ports or facilities of those States, the States concerned may declare that the exclusion from the application of this Convention declared under paragraph 1 covers also ships referred to in this paragraph.
3. Any State which has made the declaration under paragraph 1 or 2 may withdraw such declaration at any time.
4. A declaration made under paragraph 1 or 2, and the withdrawal of the declaration made under paragraph 3, shall be deposited with the Secretary-General who shall, after the entry into force of this Convention, communicate it to the Director.
5. Where a State has made a declaration under paragraph 1 or 2 and has not withdrawn it, hazardous and noxious substances carried on board ships covered by that paragraph shall not be considered to be contributing cargo for the purpose of application of articles 18, 20, article 21, paragraph 5 and article 43.

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6. The HNS Fund is not liable to pay compensation for damage caused by substances carried by a ship to which the Convention does not apply pursuant to a declaration made under paragraph 1 or 2, to the extent that:

(a) the damage as defined in article 1, paragraph 6(a), (b) or (c) was caused in:

(i) the territory, including the territorial sea, of the State which has made the declaration, or in the case of neighbouring States which have made a declaration under paragraph 2, of either of them; or

(ii) the exclusive economic zone, or area mentioned in article 3(b), of the State or States referred to in (i);

(b) the damage includes measures taken to prevent or minimize such damage.

## DUTIES OF STATE PARTIES

### *Article 6*

Each State Party shall ensure that any obligation arising under this Convention is fulfilled and shall take appropriate measures under its law including the imposing of sanctions as it may deem necessary, with a view to the effective execution of any such obligation.

## CHAPTER II

### LIABILITY

#### LIABILITY OF THE OWNER

### *Article 7*

1. Except as provided in paragraphs 2 and 3, the owner at the time of an incident shall be liable for damage caused by any hazardous and noxious substances in connection with their carriage by sea on board the ship, provided that if an incident consists of a series of occurrences having the same origin the liability shall attach to the owner at the time of the first of such occurrences.

2. No liability shall attach to the owner if the owner proves that:

(a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party; or

(c) the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function; or

(d) the failure of the shipper or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either

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(i) has caused the damage, wholly or partly; or

(ii) has led the owner not to obtain insurance in accordance with article 12;

provided that neither the owner nor its servants or agents knew or ought reasonably to have known of the hazardous and noxious nature of the substances shipped.

3. If the owner proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from liability to such person.

4. No claim for compensation for damage shall be made against the owner otherwise than in accordance with this Convention.

5. Subject to paragraph 6, no claim for compensation for damage under this Convention or otherwise may be made against:

(a) the servants or agents of the owner or the members of the crew;

(b) the pilot or any other person who, without being a member of the crew, performs services for the ship;

(c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;

(d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;

(e) any person taking preventive measures; and

(f) the servants or agents of persons mentioned in (c), (d) and (e);

unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

6. Nothing in this Convention shall prejudice any existing right of recourse of the owner against any third party, including, but not limited to, the shipper or the receiver of the substance causing the damage, or the persons indicated in paragraph 5.

## INCIDENTS INVOLVING TWO OR MORE SHIPS

### Article 8

1. Whenever damage has resulted from an incident involving two or more ships each of which is carrying hazardous and noxious substances, each owner, unless exonerated under article 7, shall be liable for the damage. The owners shall be jointly and severally liable for all such damage which is not reasonably separable.

2. However, owners shall be entitled to the limits of liability applicable to each of them under article 9.

3. Nothing in this article shall prejudice any right of recourse of an owner against any other owner.

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## LIMITATION OF LIABILITY

### Article 9

1. The owner of a ship shall be entitled to limit liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:

(a) 10 million units of account for a ship not exceeding 2,000 units of tonnage; and

(b) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (a):

for each unit of tonnage from 2,001 to 50,000 units of tonnage, 1,500 units of account

for each unit of tonnage in excess of 50,000 units of tonnage, 360 units of account

provided, however, that this aggregate amount shall not in any event exceed 100 million units of account.

2. The owner shall not be entitled to limit liability under this Convention if it is proved that the damage resulted from the personal act or omission of the owner, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

3. The owner shall, for the purpose of benefitting from the limitation provided for in paragraph 1, constitute a fund for the total sum representing the limit of liability established in accordance with paragraph 1 with the court or other competent authority of any one of the States Parties in which action is brought under article 38 or, if no action is brought, with any court or other competent authority in any one of the States Parties in which an action can be brought under article 38. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the law of the State Party where the fund is constituted, and considered to be adequate by the court or other competent authority.

4. Subject to the provisions of article 11, the fund shall be distributed among the claimants in proportion to the amounts of their established claims.

5. If before the fund is distributed the owner or any of the servants or agents of the owner or any person providing to the owner insurance or other financial security has as a result of the incident in question, paid compensation for damage, such person shall, up to the amount that person has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

6. The right of subrogation provided for in paragraph 5 may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for damage which such person may have paid but only to the extent that such subrogation is permitted under the applicable national law.

7. Where owners or other persons establish that they may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which the right of subrogation would have been enjoyed under paragraphs 5 or 6 had the compensation been paid before the fund was distributed, the court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce the claim against the fund.

8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall rank equally with other claims against the fund.

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9.

(a) The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3

The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State.

(b) Nevertheless, a State Party which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five-and-a-half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

(c) The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first two sentences of paragraph 9(a). States Parties shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

10. For the purpose of this article the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

11. The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this article on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limitation of liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

#### *Article 10*

1. Where the owner, after an incident, has constituted a fund in accordance with article 9 and is entitled to limit liability:

(a) no person having a claim for damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim; and

(b) the court or other competent authority of any State Party shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.

2. The foregoing shall, however, only apply if the claimant has access to the court administering the fund and the fund is actually available in respect of the claim.

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## DEATH AND INJURY

### *Article 11*

Claims in respect of death or personal injury have priority over other claims save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with article 9, paragraph 1.

## COMPULSORY INSURANCE OF THE OWNER

### *Article 12*

1. The owner of a ship registered in a State Party and actually carrying hazardous and noxious substances shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, in the sums fixed by applying the limits of liability prescribed in article 9, paragraph 1, to cover liability for damage under this Convention.

2. A compulsory insurance certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party such compulsory insurance certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in Annex I and shall contain the following particulars:

- (a) name of the ship, distinctive number or letters and port of registry;
- (b) name and principal place of business of the owner;
- (c) IMO ship identification number;
- (d) type and duration of security;
- (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
- (f) period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.

3. The compulsory insurance certificate shall be in the official language or languages of the issuing State. If the language used is neither English, nor French nor Spanish, the text shall include a translation into one of these languages.

4. The compulsory insurance certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.

5. An insurance or other financial security shall not satisfy the requirements of this article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 4, unless the compulsory insurance certificate has been issued within the said period. The foregoing

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provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this article.

6. The State of the ship's registry shall, subject to the provisions of this article, determine the conditions of issue and validity of the compulsory insurance certificate.

7. Compulsory insurance certificates issued or certified under the authority of a State Party in accordance with paragraph 2 shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as compulsory insurance certificates issued or certified by them even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the compulsory insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

8. Any claim for compensation for damage may be brought directly against the insurer or other person providing financial security for the owner's liability for damage. In such case the defendant may, even if the owner is not entitled to limitation of liability, benefit from the limit of liability prescribed in accordance with paragraph 1. The defendant may further invoke the defences (other than the bankruptcy or winding up of the owner) which the owner would have been entitled to invoke. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the owner against the defendant. The defendant shall in any event have the right to require the owner to be joined in the proceedings.

9. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention.

10. A State Party shall not permit a ship under its flag to which this article applies to trade unless a certificate has been issued under paragraph 2 or 12.

11. Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security in the sums specified in paragraph 1 is in force in respect of any ship, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an offshore facility in its territorial sea.

12. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a compulsory insurance certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed in accordance with paragraph 1. Such a compulsory insurance certificate shall follow as closely as possible the model prescribed by paragraph 2.

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### CHAPTER III

## COMPENSATION BY THE INTERNATIONAL HAZARDOUS AND NOXIOUS SUBSTANCES FUND (HNS FUND)

### ESTABLISHMENT OF THE HNS FUND

#### *Article 13*

1. The International Hazardous and Noxious Substances Fund (HNS Fund) is hereby established with the following aims:

(a) to provide compensation for damage in connection with the carriage of hazardous and noxious substances by sea, to the extent that the protection afforded by chapter II is inadequate or not available; and

(b) to give effect to the related tasks set out in article 15.

2. The HNS Fund shall in each State Party be recognized as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each State Party shall recognize the Director as the legal representative of the HNS Fund.

### COMPENSATION

#### *Article 14*

1. For the purpose of fulfilling its function under article 13, paragraph 1(a), the HNS Fund shall pay compensation to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of chapter II:

(a) because no liability for the damage arises under chapter II;

(b) because the owner liable for the damage under chapter II is financially incapable of meeting the obligations under this Convention in full and any financial security that may be provided under chapter II does not cover or is insufficient to satisfy the claims for compensation for damage; an owner being treated as financially incapable of meeting these obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under chapter II after having taken all reasonable steps to pursue the available legal remedies;

(c) because the damage exceeds the owner's liability under the terms of chapter II.

2. Expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall be treated as damage for the purposes of this article.

3. The HNS Fund shall incur no obligation under the preceding paragraphs if:

(a) it proves that the damage resulted from an act of war, hostilities, civil war or insurrection or was caused by hazardous and noxious substances which had escaped or been discharged from



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a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or

(b) the claimant cannot prove that there is a reasonable probability that the damage resulted from an incident involving one or more ships.

4. If the HNS Fund proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the HNS Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The HNS Fund shall in any event be exonerated to the extent that the owner may have been exonerated under article 7, paragraph 3. However, there shall be no such exoneration of the HNS Fund with regard to preventive measures.

5.

(a) Except as otherwise provided in subparagraph (b), the aggregate amount of compensation payable by the HNS Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount and any amount of compensation actually paid under chapter II for damage within the scope of application of this Convention as defined in article 3 shall not exceed 250 million units of account.

(b) The aggregate amount of compensation payable by the HNS Fund under this article for damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 250 million units of account.

(c) Interest accrued on a fund constituted in accordance with article 9, paragraph 3, if any, shall not be taken into account for the computation of the maximum compensation payable by the HNS Fund under this article.

(d) The amounts mentioned in this article shall be converted into national currency on the basis of the value of that currency with reference to the Special Drawing Right on the date of the decision of the Assembly of the HNS Fund as to the first date of payment of compensation.

6. Where the amount of established claims against the HNS Fund exceeds the aggregate amount of compensation payable under paragraph 5, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants

Claims in respect of death or personal injury shall have priority over other claims, however, save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with paragraph 5.

7. The Assembly of the HNS Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner has not constituted a fund in accordance with chapter II. In such cases paragraph 5(d) applies accordingly.

## RELATED TASKS OF THE HNS FUND

### *Article 15*

For the purpose of fulfilling its function under article 13, paragraph 1(a), the HNS Fund shall have the following tasks:

(a) to consider claims made against the HNS Fund;

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(b) to prepare an estimate in the form of a budget for each calendar year of:

Expenditure:

(i) costs and expenses of the administration of the HNS Fund in the relevant year and any deficit from operations in the preceding years; and

(ii) payments to be made by the HNS Fund in the relevant year;

Income:

(iii) surplus funds from operations in preceding years, including any interest;

(iv) initial contributions to be paid in the course of the year;

(v) annual contributions if required to balance the budget; and

(vi) any other income;

(c) to use at the request of a State Party its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or mitigate damage arising from an incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention; and

(d) to provide, on conditions laid down in the internal regulations, credit facilities with a view to the taking of preventive measures against damage arising from a particular incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention.

## GENERAL PROVISIONS ON CONTRIBUTIONS

### Article 16

1. The HNS Fund shall have a general account, which shall be divided into sectors.

2. The HNS Fund shall, subject to article 19, paragraphs 3 and 4, also have separate accounts in respect of:

(a) oil as defined in article 1, paragraph 5(a)(i) (oil account);

(b) liquefied natural gases of light hydrocarbons with methane as the main constituent (LNG) (LNG account); and

(c) liquefied petroleum gases of light hydrocarbons with propane and butane as the main constituents (LPG) (LPG account).

3. There shall be initial contributions and, as required, annual contributions to the HNS Fund.

4. Contributions to the HNS Fund shall be made into the general account in accordance with article 18, to separate accounts in accordance with article 19 and to either the general account or separate accounts in accordance with article 20 or article 21, paragraph 5. Subject to article 19, paragraph 6, the general account shall be available to compensate damage caused by hazardous and noxious substances covered by that account, and a separate account shall be available to compensate damage caused by a hazardous and noxious substance covered by that account.

5. For the purposes of article 18, article 19, paragraph 1(a)(i), paragraph 1(a)(ii) and paragraph 1(c), article 20 and article 21, paragraph 5, where the quantity of a given type of contributing

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cargo received in the territory of a State Party by any person in a calendar year when aggregated with the quantities of the same type of cargo received in the same State Party in that year by any associated person or persons exceeds the limit specified in the respective subparagraphs, such a person shall pay contributions in respect of the actual quantity received by that person notwithstanding that that quantity did not exceed the respective limit.

6. “Associated person” means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the State concerned.

## GENERAL PROVISIONS ON ANNUAL CONTRIBUTIONS

### *Article 17*

1. Annual contributions to the general account and to each separate account shall be levied only as required to make payments by the account in question.
2. Annual contributions payable pursuant to articles 18, 19 and article 21, paragraph 5 shall be determined by the Assembly and shall be calculated in accordance with those articles on the basis of the units of contributing cargo received or, in respect of cargoes referred to in article 19, paragraph 1(b), discharged during the preceding calendar year or such other year as the Assembly may decide.
3. The Assembly shall decide the total amount of annual contributions to be levied to the general account and to each separate account. Following that decision the Director shall, in respect of each State Party, calculate for each person liable to pay contributions in accordance with article 18, article 19, paragraph 1 and article 21, paragraph 5, the amount of that person’s annual contribution to each account, on the basis of a fixed sum for each unit of contributing cargo reported in respect of the person during the preceding calendar year or such other year as the Assembly may decide. For the general account, the above-mentioned fixed sum per unit of contributing cargo for each sector shall be calculated pursuant to the regulations contained in Annex II to this Convention. For each separate account, the fixed sum per unit of contributing cargo referred to above shall be calculated by dividing the total annual contribution to be levied to that account by the total quantity of cargo contributing to that account.
4. The Assembly may also levy annual contributions for administrative costs and decide on the distribution of such costs between the sectors of the general account and the separate accounts.
5. The Assembly shall also decide on the distribution between the relevant accounts and sectors of amounts paid in compensation for damage caused by two or more substances which fall within different accounts or sectors, on the basis of an estimate of the extent to which each of the substances involved contributed to the damage.

## ANNUAL CONTRIBUTIONS TO THE GENERAL ACCOUNT

### *Article 18*

1. Subject to article 16, paragraph 5, annual contributions to the general account shall be made in respect of each State Party by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of aggregate quantities exceeding

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20,000 tonnes of contributing cargo, other than substances referred to in article 19, paragraph 1, which fall within the following sectors:

- (a) solid bulk materials referred to in article 1, paragraph 5(a)(vii);
- (b) substances referred to in paragraph 2; and
- (c) other substances.

2. Annual contributions shall also be payable to the general account by persons who would have been liable to pay contributions to a separate account in accordance with article 19, paragraph 1 had its operation not been postponed or suspended in accordance with article 19. Each separate account the operation of which has been postponed or suspended under article 19 shall form a separate sector within the general account.

#### ANNUAL CONTRIBUTIONS TO SEPARATE ACCOUNTS

##### *Article 19*

1. Subject to article 16, paragraph 5, annual contributions to separate accounts shall be made in respect of each State Party:

- (a) in the case of the oil account,
  - (i) by any person who has received in that State in the preceding calendar year, or such other year as the Assembly may decide, total quantities exceeding 150,000 tonnes of contributing oil as defined in article 1, paragraph 3 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, and who is or would be liable to pay contributions to the International Oil Pollution Compensation Fund in accordance with article 10 of that Convention; and
  - (ii) by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of total quantities exceeding 20,000 tonnes of other oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
- (b) in the case of the LNG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, immediately prior to its discharge, held title to an LNG cargo discharged in a port or terminal of that State;
- (c) in the case of the LPG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, was the receiver in that State of total quantities exceeding 20,000 tonnes of LPG.

2. Subject to paragraph 3, the separate accounts referred to in paragraph 1 above shall become effective at the same time as the general account.

3. The initial operation of a separate account referred to in article 16, paragraph 2 shall be postponed until such time as the quantities of contributing cargo in respect of that account during the preceding calendar year, or such other year as the Assembly may decide, exceed the following levels:

- (a) 350 million tonnes of contributing cargo in respect of the oil account;
- (b) 20 million tonnes of contributing cargo in respect of the LNG account; and

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- (c) 15 million tonnes of contributing cargo in respect of the LPG account.
4. The Assembly may suspend the operation of a separate account if:
- (a) the quantities of contributing cargo in respect of that account during the preceding calendar year fall below the respective level specified in paragraph 3; or
- (b) when six months have elapsed from the date when the contributions were due, the total unpaid contributions to that account exceed ten per cent of the most recent levy to that account in accordance with paragraph 1.
5. The Assembly may reinstate the operation of a separate account which has been suspended in accordance with paragraph 4.
6. Any person who would be liable to pay contributions to a separate account the operation of which has been postponed in accordance with paragraph 3 or suspended in accordance with paragraph 4, shall pay into the general account the contributions due by that person in respect of that separate account. For the purpose of calculating future contributions, the postponed or suspended separate account shall form a new sector in the general account and shall be subject to the HNS points system defined in Annex II.

## INITIAL CONTRIBUTIONS

### *Article 20*

1. In respect of each State Party, initial contributions shall be made of an amount which shall for each person liable to pay contributions in accordance with article 16, paragraph 5, articles 18, 19 and article 21, paragraph 5 be calculated on the basis of a fixed sum, equal for the general account and each separate account, for each unit of contributing cargo received or, in the case of LNG, discharged in that State, during the calendar year preceding that in which this Convention enters into force for that State.
2. The fixed sum and the units for the different sectors within the general account as well as for each separate account referred to in paragraph 1 shall be determined by the Assembly.
3. Initial contributions shall be paid within three months following the date on which the HNS Fund issues invoices in respect of each State Party to persons liable to pay contributions in accordance with paragraph 1.

## REPORTS

### *Article 21*

1. Each State Party shall ensure that any person liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article appears on a list to be established and kept up to date by the Director in accordance with the provisions of this article.
2. For the purposes set out in paragraph 1, each State Party shall communicate to the Director, at a time and in the manner to be prescribed in the internal regulations of the HNS Fund, the name and address of any person who in respect of the State is liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article, as well as data on the relevant

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quantities of contributing cargo for which such a person is liable to contribute in respect of the preceding calendar year.

3. For the purposes of ascertaining who are, at any given time, the persons liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article and of establishing, where applicable, the quantities of cargo to be taken into account for any such person when determining the amount of the contribution, the list shall be *prima facie* evidence of the facts stated therein.

4. Where a State Party does not fulfil its obligations to communicate to the Director the information referred to in paragraph 2 and this results in a financial loss for the HNS Fund, that State Party shall be liable to compensate the HNS Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by a State Party.

5. In respect of contributing cargo carried from one port or terminal of a State Party to another port or terminal located in the same State and discharged there, States Parties shall have the option of submitting to the HNS Fund a report with an annual aggregate quantity for each account covering all receipts of contributing cargo, including any quantities in respect of which contributions are payable pursuant to article 16, paragraph 5. The State Party shall, at the time of reporting, either:

(a) notify the HNS Fund that that State will pay the aggregate amount for each account in respect of the relevant year in one lump sum to the HNS Fund; or

(b) instruct the HNS Fund to levy the aggregate amount for each account by invoicing individual receivers or, in the case of LNG, the title holder who discharges within the jurisdiction of that State Party, for the amount payable by each of them. These persons shall be identified in accordance with the national law of the State concerned.

## NON-PAYMENT OF CONTRIBUTIONS

### *Article 22*

1. The amount of any contribution due under articles 18, 19, 20 or article 21, paragraph 5 and which is in arrears shall bear interest at a rate which shall be determined in accordance with the internal regulations of the HNS Fund, provided that different rates may be fixed for different circumstances.

2. Where a person who is liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5 does not fulfil the obligations in respect of any such contribution or any part thereof and is in arrears, the Director shall take all appropriate action, including court action, against such a person on behalf of the HNS Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

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## OPTIONAL LIABILITY OF STATES PARTIES FOR THE PAYMENT OF CONTRIBUTIONS

### *Article 23*

1. Without prejudice to article 21, paragraph 5, a State Party may at the time when it deposits its instrument of ratification, acceptance, approval or accession or at any time thereafter declare that it assumes responsibility for obligations imposed by this Convention on any person liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5 in respect of hazardous and noxious substances received or discharged in the territory of that State. Such a declaration shall be made in writing and shall specify which obligations are assumed.
2. Where a declaration under paragraph 1 is made prior to the entry into force of this Convention in accordance with article 46, it shall be deposited with the Secretary-General who shall after the entry into force of this Convention communicate the declaration to the Director.
3. A declaration under paragraph 1 which is made after the entry into force of this Convention shall be deposited with the Director.
4. A declaration made in accordance with this article may be withdrawn by the relevant State giving notice thereof in writing to the Director. Such a notification shall take effect three months after the Director's receipt thereof.
5. Any State which is bound by a declaration made under this article shall, in any proceedings brought against it before a competent court in respect of any obligation specified in the declaration, waive any immunity that it would otherwise be entitled to invoke.

## ORGANIZATION AND ADMINISTRATION

### *Article 24*

The HNS Fund shall have an Assembly and a Secretariat headed by the Director.

### ASSEMBLY

### *Article 25*

The Assembly shall consist of all States Parties to this Convention.

### *Article 26*

The functions of the Assembly shall be:

- (a) to elect at each regular session its President and two Vice-Presidents who shall hold office until the next regular session;
- (b) to determine its own rules of procedure, subject to the provisions of this Convention;

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- (c) to develop, apply and keep under review internal and financial regulations relating to the aim of the HNS Fund as described in article 13, paragraph 1(a), and the related tasks of the HNS Fund listed in article 15;
- (d) to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;
- (e) to adopt the annual budget prepared in accordance with article 15(b);
- (f) to consider and approve as necessary any recommendation of the Director regarding the scope of definition of contributing cargo;
- (g) to appoint auditors and approve the accounts of the HNS Fund;
- (h) to approve settlements of claims against the HNS Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with article 14 and to determine the terms and conditions according to which provisional payments in respect of claims shall be made with a view to ensuring that victims of damage are compensated as promptly as possible;
- (i) to establish a Committee on Claims for Compensation with at least 7 and not more than 15 members and any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the States Parties are appropriately represented; the Rules of Procedure of the Assembly may be applied, *mutatis mutandis*, for the work of such subsidiary body;
- (j) to determine which States not party to this Convention, which Associate Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies;
- (k) to give instructions concerning the administration of the HNS Fund to the Director and subsidiary bodies;
- (l) to supervise the proper execution of this Convention and of its own decisions;
- (m) to review every five years the implementation of this Convention with particular reference to the performance of the system for the calculation of levies and the contribution mechanism for domestic trade; and
- (n) to perform such other functions as are allocated to it under this Convention or are otherwise necessary for the proper operation of the HNS Fund.

#### Article 27

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.
2. Extraordinary sessions of the Assembly shall be convened by the Director at the request of at least one-third of the members of the Assembly and may be convened on the Director's own initiative after consultation with the President of the Assembly. The Director shall give members at least thirty days' notice of such sessions.



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### Article 28

A majority of the members of the Assembly shall constitute a quorum for its meetings.

### SECRETARIAT

### Article 29

1. The Secretariat shall comprise the Director and such staff as the administration of the HNS Fund may require.
2. The Director shall be the legal representative of the HNS Fund.

### Article 30

1. The Director shall be the chief administrative officer of the HNS Fund.

Subject to the instructions given by the Assembly, the Director shall perform those functions which are assigned to the Director by this Convention, the internal regulations of the HNS Fund and the Assembly.

2. The Director shall in particular:

- (a) appoint the personnel required for the administration of the HNS Fund;
- (b) take all appropriate measures with a view to the proper administration of the assets of the HNS Fund;
- (c) collect the contributions due under this Convention while observing in particular the provisions of article 22, paragraph 2;
- (d) to the extent necessary to deal with claims against the HNS Fund and to carry out the other functions of the HNS Fund, employ the services of legal, financial and other experts;
- (e) take all appropriate measures for dealing with claims against the HNS Fund, within the limits and on conditions to be laid down in the internal regulations of the HNS Fund, including the final settlement of claims without the prior approval of the Assembly where these regulations so provide;
- (f) prepare and submit to the Assembly the financial statements and budget estimates for each calendar year;
- (g) prepare, in consultation with the President of the Assembly, and publish a report on the activities of the HNS Fund during the previous calendar year; and
- (h) prepare, collect and circulate the documents and information which may be required for the work of the Assembly and subsidiary bodies.

### Article 31

In the performance of their duties the Director and the staff and experts appointed by the Director shall not seek or receive instructions from any Government or from any authority external to the HNS Fund. They shall refrain from any action which might adversely reflect on their position as international officials. Each State Party on its part undertakes to respect the exclusively

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international character of the responsibilities of the Director and the staff and experts appointed by the Director, and not to seek to influence them in the discharge of their duties.

## FINANCES

### *Article 32*

1. Each State Party shall bear the salary, travel and other expenses of its own delegation to the Assembly and of its representatives on subsidiary bodies.
2. Any other expenses incurred in the operation of the HNS Fund shall be borne by the HNS Fund.

## VOTING

### *Article 33*

The following provisions shall apply to voting in the Assembly:

- (a) each member shall have one vote;
- (b) except as otherwise provided in article 34, decisions of the Assembly shall be made by a majority vote of the members present and voting;
- (c) decisions where a two-thirds majority is required shall be a two-thirds majority vote of members present; and
- (d) for the purpose of this article the phrase “members present” means “members present at the meeting at the time of the vote”, and the phrase “members present and voting” means “members present and casting an affirmative or negative vote”. Members who abstain from voting shall be considered as not voting.

### *Article 34*

The following decisions of the Assembly shall require a two-thirds majority:

- (a) a decision under article 19, paragraphs 4 or 5 to suspend or reinstate the operation of a separate account;
- (b) a decision under article 22, paragraph 2, not to take or continue action against a contributor;
- (c) the appointment of the Director under article 26(d);
- (d) the establishment of subsidiary bodies, under article 26(i), and matters relating to such establishment; and
- (e) a decision under article 51, paragraph 1, that this Convention shall continue to be in force.

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## TAX EXEMPTIONS AND CURRENCY REGULATIONS

### *Article 35*

1. The HNS Fund, its assets, income, including contributions, and other property necessary for the exercise of its functions as described in article 13, paragraph 1, shall enjoy in all States Parties exemption from all direct taxation.
2. When the HNS Fund makes substantial purchases of movable or immovable property, or of services which are necessary for the exercise of its official activities in order to achieve its aims as set out in article 13, paragraph 1, the cost of which include indirect taxes or sales taxes, the Governments of the States Parties shall take, whenever possible, appropriate measures for the remission or refund of the amount of such duties and taxes. Goods thus acquired shall not be sold against payment or given away free of charge unless it is done according to conditions approved by the Government of the State having granted or supported the remission or refund.
3. No exemption shall be accorded in the case of duties, taxes or dues which merely constitute payment for public utility services.
4. The HNS Fund shall enjoy exemption from all customs duties, taxes and other related taxes on articles imported or exported by it or on its behalf for its official use. Articles thus imported shall not be transferred either for consideration or gratis on the territory of the country into which they have been imported except on conditions agreed by the Government of that country.
5. Persons contributing to the HNS Fund as well as victims and owners receiving compensation from the HNS Fund shall be subject to the fiscal legislation of the State where they are taxable, no special exemption or other benefit being conferred on them in this respect.
6. Notwithstanding existing or future regulations concerning currency or transfers, States Parties shall authorize the transfer and payment of any contribution to the HNS Fund and of any compensation paid by the HNS Fund without any restriction.

## CONFIDENTIALITY OF INFORMATION

### *Article 36*

Information relating to individual contributors supplied for the purpose of this Convention shall not be divulged outside the HNS Fund except in so far as it may be strictly necessary to enable the HNS Fund to carry out its functions including the bringing and defending of legal proceedings.

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## CHAPTER IV

### CLAIMS AND ACTIONS

#### LIMITATION OF ACTIONS

##### *Article 37*

1. Rights to compensation under chapter II shall be extinguished unless an action is brought thereunder within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage and of the identity of the owner.
2. Rights to compensation under chapter III shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to article 39, paragraph 7, within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage.
3. In no case, however, shall an action be brought later than ten years from the date of the incident which caused the damage.
4. Where the incident consists of a series of occurrences, the ten-year period mentioned in paragraph 3 shall run from the date of the last of such occurrences.

#### JURISDICTION IN RESPECT OF ACTION AGAINST THE OWNER

##### *Article 38*

1. Where an incident has caused damage in the territory, including the territorial sea or in an area referred to in article 3(b), of one or more States Parties, or preventive measures have been taken to prevent or minimize damage in such territory including the territorial sea or in such area, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of any such States Parties.
2. Where an incident has caused damage exclusively outside the territory, including the territorial sea, of any State and either the conditions for application of this Convention set out in article 3(c) have been fulfilled or preventive measures to prevent or minimize such damage have been taken, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of:
  - (a) the State Party where the ship is registered or, in the case of an unregistered ship, the State Party whose flag the ship is entitled to fly; or
  - (b) the State Party where the owner has habitual residence or where the principal place of business of the owner is established; or
  - (c) the State Party where a fund has been constituted in accordance with article 9, paragraph 3.
3. Reasonable notice of any action taken under paragraph 1 or 2 shall be given to the defendant.
4. Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.

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5. After a fund under article 9 has been constituted by the owner or by the insurer or other person providing financial security in accordance with article 12, the courts of the State in which such fund is constituted shall have exclusive jurisdiction to determine all matters relating to the apportionment and distribution of the fund.

#### JURISDICTION IN RESPECT OF ACTION AGAINST THE HNS FUND OR TAKEN BY THE HNS FUND

##### *Article 39*

1. Subject to the subsequent provisions of this article, any action against the HNS Fund for compensation under article 14 shall be brought only before a court having jurisdiction under article 38 in respect of actions against the owner who is liable for damage caused by the relevant incident or before a court in a State Party which would have been competent if an owner had been liable.

2. In the event that the ship carrying the hazardous or noxious substances which caused the damage has not been identified, the provisions of article 38, paragraph 1, shall apply *mutatis mutandis* to actions against the HNS Fund.

3. Each State Party shall ensure that its courts have jurisdiction to entertain such actions against the HNS Fund as are referred to in paragraph 1.

4. Where an action for compensation for damage has been brought before a court against the owner or the owner's guarantor, such court shall have exclusive jurisdiction over any action against the HNS Fund for compensation under the provisions of article 14 in respect of the same damage.

5. Each State Party shall ensure that the HNS Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with this Convention before a competent court of that State against the owner or the owner's guarantor.

6. Except as otherwise provided in paragraph 7, the HNS Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.

7. Without prejudice to the provisions of paragraph 5, where an action under this Convention for compensation for damage has been brought against an owner or the owner's guarantor before a competent court in a State Party, each party to the proceedings shall be entitled under the national law of that State to notify the HNS Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seized and in such time and in such a manner that the HNS Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgement rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgement was given, become binding upon the HNS Fund in the sense that the facts and findings in that judgement may not be disputed by the HNS Fund even if the HNS Fund has not actually intervened in the proceedings.

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## RECOGNITION AND ENFORCEMENT

### *Article 40*

1. Any judgement given by a court with jurisdiction in accordance with article 38, which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any State Party, except:

(a) where the judgement was obtained by fraud; or

(b) where the defendant was not given reasonable notice and a fair opportunity to present the case.

2. A judgement recognized under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.

3. Subject to any decision concerning the distribution referred to in article 14, paragraph 6, any judgement given against the HNS Fund by a court having jurisdiction in accordance with article 39, paragraphs 1 and 3 shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognized and enforceable in each State Party.

## SUBROGATION AND RECOURSE

### *Article 41*

1. The HNS Fund shall, in respect of any amount of compensation for damage paid by the HNS Fund in accordance with article 14, paragraph 1, acquire by subrogation the rights that the person so compensated may enjoy against the owner or the owner's guarantor.

2. Nothing in this Convention shall prejudice any rights of recourse or subrogation of the HNS Fund against any person, including persons referred to in article 7, paragraph 2(d), other than those referred to in the previous paragraph, in so far as they can limit their liability. In any event the right of the HNS Fund to subrogation against such persons shall not be less favourable than that of an insurer of the person to whom compensation has been paid.

3. Without prejudice to any other rights of subrogation or recourse against the HNS Fund which may exist, a State Party or agency thereof which has paid compensation for damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

## SUPERSESSION CLAUSE

### *Article 42*

This Convention shall supersede any convention in force or open for signature, ratification or accession at the date on which this Convention is opened for signature, but only to the extent

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that such convention would be in conflict with it; however, nothing in this article shall affect the obligations of States Parties to States not party to this Convention arising under such convention.

## CHAPTER V

### TRANSITIONAL PROVISIONS

#### INFORMATION ON CONTRIBUTING CARGO

##### *Article 43*

When depositing an instrument referred to in article 45, paragraph 3, and annually thereafter until this Convention enters into force for a State, that State shall submit to the Secretary-General data on the relevant quantities of contributing cargo received or, in the case of LNG, discharged in that State during the preceding calendar year in respect of the general account and each separate account.

#### FIRST SESSION OF THE ASSEMBLY

##### *Article 44*

The Secretary-General shall convene the first session of the Assembly. This session shall take place as soon as possible after the entry into force of this Convention and, in any case, not more than thirty days after such entry into force.

## CHAPTER VI

### FINAL CLAUSES

#### SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

##### *Article 45*

1. This Convention shall be open for signature at the Headquarters of the Organization from 1 October 1996 to 30 September 1997 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Convention by:
  - (a) signature without reservation as to ratification, acceptance or approval; or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (c) accession.

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3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

#### ENTRY INTO FORCE

##### *Article 46*

1. This Convention shall enter into force eighteen months after the date on which the following conditions are fulfilled:

(a) at least twelve States, including four States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it, and

(b) the Secretary-General has received information in accordance with article 43 that those persons in such States who would be liable to contribute pursuant to article 18, paragraphs 1(a) and (c) have received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo contributing to the general account.

2. For a State which expresses its consent to be bound by this Convention after the conditions for entry into force have been met, such consent shall take effect three months after the date of expression of such consent, or on the date on which this Convention enters into force in accordance with paragraph 1, whichever is the later.

#### REVISION AND AMENDMENT

##### *Article 47*

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of six States Parties or one-third of the States Parties, whichever is the higher figure.

3. Any consent to be bound by this Convention expressed after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

#### AMENDMENT OF LIMITS

##### *Article 48*

1. Without prejudice to the provisions of article 47, the special procedure in this article shall apply solely for the purposes of amending the limits set out in article 9, paragraph 1 and article 14, paragraph 5.

2. Upon the request of at least one half, but in no case less than six, of the States Parties, any proposal to amend the limits specified in article 9, paragraph 1, and article 14, paragraph 5, shall



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be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.

3. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization (the Legal Committee) for consideration at a date at least six months after the date of its circulation.

4. All Contracting States, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

5. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided in paragraph 4, on condition that at least one half of the Contracting States shall be present at the time of voting.

6. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits established in article 9, paragraph 1, and those in article 14, paragraph 5.

7.

(a) No amendment of the limits under this article may be considered less than five years from the date this Convention was opened for signature nor less than five years from the date of entry into force of a previous amendment under this article.

(b) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention increased by six per cent per year calculated on a compound basis from the date on which this Convention was opened for signature.

(c) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention multiplied by three.

8. Any amendment adopted in accordance with paragraph 5 shall be notified by the Organization to all Contracting States

The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period no less than one-fourth of the States which were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.

9. An amendment deemed to have been accepted in accordance with paragraph 8 shall enter into force eighteen months after its acceptance.

10. All Contracting States shall be bound by the amendment, unless they denounce this Convention in accordance with article 49, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

11. When an amendment has been adopted but the eighteen month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 8. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Convention enters into force for that State, if later.

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#### *Article 49*

1. This Convention may be denounced by any State Party at any time after the date on which it enters into force for that State Party.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
3. Denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.
4. Notwithstanding a denunciation by a State Party pursuant to this article, any provisions of this Convention relating to obligations to make contributions under articles 18, 19 or article 21, paragraph 5 in respect of such payments of compensation as the Assembly may decide relating to an incident which occurs before the denunciation takes effect shall continue to apply.

### EXTRAORDINARY SESSIONS OF THE ASSEMBLY

#### *Article 50*

1. Any State Party may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions from the remaining States Parties, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not less than sixty days after receipt of the request.
2. The Director may take the initiative to convene an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if the Director considers that such denunciation will result in a significant increase in the level of contributions from the remaining States Parties.
3. If the Assembly, at an extraordinary session, convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions from the remaining States Parties, any such State may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Convention with effect from the same date.

### CESSATION

#### *Article 51*

1. This Convention shall cease to be in force:
  - (a) on the date when the number of States Parties falls below 6; or
  - (b) twelve months after the date on which data concerning a previous calendar year were to be communicated to the Director in accordance with article 21, if the data shows that the total quantity of contributing cargo to the general account in accordance with article 18, paragraphs 1(a) and (c) received in the States Parties in that preceding calendar year was less than 30 million tonnes.

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Notwithstanding (b), if the total quantity of contributing cargo to the general account in accordance with article 18, paragraphs 1(a) and (c) received in the States Parties in the preceding calendar year was less than 30 million tonnes but more than 25 million tonnes, the Assembly may, if it considers that this was due to exceptional circumstances and is not likely to be repeated, decide before the expiry of the above-mentioned twelve month period that the Convention shall continue to be in force. The Assembly may not, however, take such a decision in more than two subsequent years.

2. States which are bound by this Convention on the day before the date it ceases to be in force shall enable the HNS Fund to exercise its functions as described under article 52 and shall, for that purpose only, remain bound by this Convention.

## WINDING UP OF THE HNS FUND

### *Article 52*

1. If this Convention ceases to be in force, the HNS Fund shall nevertheless:
  - (a) meet its obligations in respect of any incident occurring before this Convention ceased to be in force; and
  - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under (a), including expenses for the administration of the HNS Fund necessary for this purpose.
2. The Assembly shall take all appropriate measures to complete the winding up of the HNS Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the HNS Fund.
3. For the purposes of this article the HNS Fund shall remain a legal person.

## DEPOSITARY

### *Article 53*

1. This Convention and any amendment adopted under article 48 shall be deposited with the Secretary-General.
2. The Secretary-General shall:
  - (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;
    - (ii) the date of entry into force of this Convention;
    - (iii) any proposal to amend the limits on the amounts of compensation which has been made in accordance with article 48, paragraph 2;
    - (iv) any amendment which has been adopted in accordance with article 48, paragraph 5;

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(v) any amendment deemed to have been accepted under article 48, paragraph 8, together with the date on which that amendment shall enter into force in accordance with paragraphs 9 and 10 of that article;

(vi) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect; and

(vii) any communication called for by any article in this Convention; and

(b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

## LANGUAGES

### *Article 54*

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.]

## SCHEDULE 6

Section 183.

### CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND THEIR LUGGAGE BY SEA

## PART I

### <sup>F12</sup>TEXT OF CONVENTION

#### **Textual Amendments**

**F12** Sch. 6 Pt. 1 substituted (28.5.2014) by [The Merchant Shipping \(Convention Relating to the Carriage of Passengers and their Luggage by Sea\) Order 2014 \(S.I. 2014/1361\)](#), art. 1(1), **Sch.** (with arts. 3, 5)

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## **“Part I**

### Text of the convention

#### **ARTICLE 1**

##### **Definitions**

In this Convention the following expressions have the meaning hereby assigned to them:

- 1
  - (a) "carrier" means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by that person or by a performing carrier;
  - (b) "performing carrier" means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;
  - (c) "carrier who actually performs the whole or a part of the carriage" means the performing carrier, or, in so far as the carrier actually performs the carriage, the carrier;
- 2 "contract of carriage" means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his luggage, as the case may be;
- 3 "ship" means only a seagoing vessel, excluding an air-cushion vehicle;
- 4 "passenger" means any person carried in a ship,
  - (a) under a contract of carriage, or
  - (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Convention;
- 5 "luggage" means any article or vehicle carried by the carrier under a contract of carriage, excluding:
  - (a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods, and
  - (b) live animals;
- 6 "cabin luggage" means luggage which the passenger has in his cabin or is otherwise in his possession, custody or control. Except for the application of paragraph 8 of this Article and Article 8, cabin luggage includes luggage which the passenger has in or on his vehicle;
- 7 "loss of or damage to luggage" includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labour disputes;

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- 8 "carriage" covers the following periods:
- (a) with regard to the passenger and his cabin luggage, the period during which the passenger and/or his cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his cabin luggage are transported by water from land to the ship or vice-versa, if the cost of such transport is included in the fare or if the vessel used for this purpose of auxiliary transport has been put at the disposal of the passenger by the carrier. However, with regard to the passenger, carriage does not include the period during which he is in a marine terminal or station or on a quay or in or on any other port installation;
  - (b) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been re-delivered to the passenger;
  - (c) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent on shore or on board until the time of its re-delivery by the carrier or his servant or agent;
- 9 "international carriage" means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State;
- 10 "Organization" means the International Maritime Organization.
- 11 "Secretary-General" means the Secretary-General of the Organization.

#### **ARTICLE 1 bis**

##### **Annex**

The annex to this Convention shall constitute an integral part of the Convention.

#### **ARTICLE 2**

##### **Application**

- 1 This Convention shall apply to any international carriage if:
- (a) the ship is flying the flag of or is registered in a State Party to this Convention, or
  - (b) the contract of carriage has been made in a State Party to this Convention, or
  - (c) the place of departure or destination, according to the contract of carriage, is in a State Party to this Convention.

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- 2 Notwithstanding paragraph 1 of this Article, this Convention shall not apply when the carriage is subject, under any other international convention concerning the carriage of passengers or luggage by another mode of transport, to a civil liability regime under the provisions of such convention, in so far as those provisions have mandatory application to carriage by sea.

### ARTICLE 3

#### Liability of the carrier

- 1 For the loss suffered as a result of the death of or personal injury to a passenger caused by a shipping incident, the carrier shall be liable to the extent that such loss in respect of that passenger on each distinct occasion does not exceed 250,000 units of account, unless the carrier proves that the incident:
- (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
  - (b) was wholly caused by an act or omission done with the intent to cause the incident by a third party.

If and to the extent that the loss exceeds the above limit, the carrier shall be further liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.

- 2 For the loss suffered as a result of the death of or personal injury to a passenger not caused by a shipping incident, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier. The burden of proving fault or neglect shall lie with the claimant.
- 3 For the loss suffered as a result of the loss of or damage to cabin luggage, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier. The fault or neglect of the carrier shall be presumed for loss caused by a shipping incident.
- 4 For the loss suffered as a result of the loss of or damage to luggage other than cabin luggage, the carrier shall be liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.
- 5 For the purposes of this article:
- (a) "shipping incident" means shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship;
  - (b) "fault or neglect of the carrier" includes the fault or neglect of the servants of the carrier, acting within the scope of their employment;
  - (c) "defect in the ship" means any malfunction, failure or non-compliance with applicable safety regulations in respect of any part of the ship or its equipment when used for the escape, evacuation, embarkation and disembarkation of passengers, or when used for the propulsion, steering, safe navigation, mooring, anchoring, arriving at or leaving berth or anchorage, or damage control after flooding; or when used for the launching of life saving appliances; and

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(d) “loss” shall not include punitive or exemplary damages.

- 6 The liability of the carrier under this Article only relates to loss arising from incidents that occurred in the course of the carriage. The burden of proving that the incident which caused the loss occurred in the course of the carriage, and the extent of the loss, shall lie with the claimant.
- 7 Nothing in this Convention shall prejudice any right of recourse of the carrier against any third party, or the defence of contributory negligence under Article 6 of this Convention. Nothing in this Article shall prejudice any right of limitation under Articles 7 or 8 of this Convention.
- 8 Presumptions of fault or neglect of a party or the allocation of the burden of proof to a party shall not prevent evidence in favour of that party from being considered.

#### ARTICLE 4

##### Performing carrier

- 1 If the performance of the carriage or part thereof has been entrusted to a performing carrier, the carrier shall nevertheless remain liable for the entire carriage according to the provisions of this Convention. In addition, the performing carrier shall be subject and entitled to the provisions of this Convention for the part of the carriage performed by him.
- 2 The carrier shall, in relation to the carriage performed by the performing carrier, be liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment.
- 3 Any special agreement under which the carrier assumes obligations not imposed by this Convention or any waiver of rights conferred by this Convention shall affect the performing carrier only if agreed by him expressly and in writing.
- 4 Where and to the extent that both the carrier and the performing carrier are liable, their liability shall be joint and several.
- 5 Nothing in this Article shall prejudice any right of recourse as between the carrier and the performing carrier.

#### ARTICLE 4bis

##### Compulsory insurance

- 1 When passengers are carried on board a ship registered in a State Party that is licensed to carry more than twelve passengers, and this Convention applies, any carrier who actually performs the whole or a part of the carriage shall maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover liability under this Convention in respect of the death of and personal injury to passengers. The limit of the compulsory insurance or other financial security shall not be less than 250,000 units of account per passenger on each distinct occasion.



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- 2 A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This certificate shall be in the form of the model set out in the annex to this Convention and shall contain the following particulars:
- (a) name of ship, distinctive number or letters and port of registry;
  - (b) name and principal place of business of the carrier who actually performs the whole or a part of the carriage;
  - (c) IMO ship identification number;
  - (d) type and duration of security;
  - (e) name and principal place of business of insurer or other person providing financial security and, where appropriate, place of business where the insurance or other financial security is established; and
  - (f) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other financial security.
- 3 (a) A State Party may authorize an institution or an organization recognised by it to issue the certificate. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued, and shall undertake to ensure the necessary arrangements to satisfy this obligation.
- (b) A State Party shall notify the Secretary-General of:
- (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognised by it;
  - (ii) the withdrawal of such authority; and
  - (iii) the date from which such authority or withdrawal of such authority takes effect.
- An authority delegated shall not take effect prior to three months from the date from which notification to that effect was given to the Secretary-General.
- (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not complied with. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.
- 4 The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into

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one of these languages, and, where the State so decides, the official language of the State may be omitted.

- 5 The certificate shall be carried on board the ship, and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.
- 6 An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or other financial security no longer satisfying the requirements of this Article.
- 7 The State of the ship's registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the certificate.
- 8 Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organizations relating to the financial standing of providers of insurance or other financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate.
- 9 Certificates issued or certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the insurance certificate is not financially capable of meeting the obligations imposed by this Convention.
- 10 Any claim for compensation covered by insurance or other financial security pursuant to this Article may be brought directly against the insurer or other person providing financial security. In such case, the amount set out in paragraph 1 applies as the limit of liability of the insurer or other person providing financial security, even if the carrier or the performing carrier is not entitled to limitation of liability. The defendant may further invoke the defences (other than the bankruptcy or winding up) which the carrier referred to in paragraph 1 would have been entitled to invoke in accordance with this Convention. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the assured, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the assured against the defendant. The defendant shall in any event have the right to require the carrier and the performing carrier to be joined in the proceedings.
- 11 Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention, and any payments made of such sums shall discharge any liability arising under this Convention to the extent of the amounts paid.
- 12 A State Party shall not permit a ship under its flag to which this Article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 15.

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- 13 Subject to the provisions of this Article, each State Party shall ensure, under its national law, that insurance or other financial security, to the extent specified in paragraph 1, is in force in respect of any ship that is licensed to carry more than twelve passengers, wherever registered, entering or leaving a port in its territory in so far as this Convention applies.
- 14 Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 13, ships are not required to carry on board or to produce the certificate required by paragraph 2 when entering or leaving ports in its territory, provided that the State Party which issues the certificate has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 13.
- 15 If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authorities of the State of the ship's registry, stating that the ship is owned by that State and that the liability is covered within the amount prescribed in accordance with paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

## ARTICLE 5

### Valuables

The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the carrier shall be liable up to the limit provided for in paragraph 3 of Article 8 unless a higher limit is agreed upon in accordance with paragraph 1 of Article 10.

## ARTICLE 6

### Contributory fault

If the carrier proves that the death of or personal injury to a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the Court seized of the case may exonerate the carrier wholly or partly from his liability in accordance with the provisions of the law of that court.

## ARTICLE 7

### Limit of liability for death and personal injury

- 1 The liability of the carrier for the death of or personal injury to a passenger under Article 3 shall in no case exceed 400,000 units of account per passenger on each distinct occasion. Where, in accordance with the law of the court seized of the case, damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the said limit.
- 2 A State Party may regulate by specific provisions of national law the limit of liability prescribed in paragraph 1, provided that the national limit of liability, if any, is not lower

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than that prescribed in paragraph 1. A State Party, which makes use of the option provided for in this paragraph, shall inform the Secretary-General of the limit of liability adopted or of the fact that there is none.

## ARTICLE 8

### Limit of liability for loss of or damage to luggage and vehicles

- 1 The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 2,250 units of account per passenger, per carriage.
- 2 The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 12,700 units of account per vehicle, per carriage.
- 3 The liability of the carrier for the loss of or damage to luggage other than that mentioned in paragraphs 1 and 2 shall in no case exceed 3,375 units of account per passenger, per carriage.
- 4 The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 330 units of account in the case of damage to a vehicle and not exceeding 149 units of account per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage.

## ARTICLE 9

### Unit of Account and conversion

- 1 The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Article 3, paragraph 1, Article 4bis, paragraph 1, Article 7, paragraph 1, and Article 8 shall be converted into the national currency of the State of the court seized of the case on the basis of the value of that currency by reference to the Special Drawing Right on the date of the judgment or the date agreed upon by the parties. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State Party.
- 2 Nevertheless, a State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the Unit of Account referred to in paragraph 1 shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

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- 3 The calculation mentioned in the last sentence of paragraph 1, and the conversion mentioned in paragraph 2 shall be made in such a manner as to express in the national currency of the States Parties, as far as possible, the same real value for the amounts in Article 3, paragraph 1, Article 4bis, paragraph 1, Article 7, paragraph 1, and Article 8 as would result from the application of the first three sentences of paragraph 1. States shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 1, or the result of the conversion in paragraph 2, as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

#### ARTICLE 10

##### Supplementary provisions on limits of liability

- 1 The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those prescribed in Articles 7 and 8.
- 2 Interest on damages and legal costs shall not be included in the limits of liability prescribed in Articles 7 and 8.

#### ARTICLE 11

##### Defences and limits for carriers' servants

If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Convention, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defences and limits of liability which the carrier or the performing carrier is entitled to invoke under this Convention.

#### ARTICLE 12

##### Aggregation of claims

- 1 Where the limits of liability prescribed in Articles 7 and 8 take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.
- 2 In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.
- 3 In any case where a servant or agent of the carrier or of the performing carrier is entitled under Article 11 of this Convention to avail himself of the limits of liability prescribed in Articles 7 and 8, the aggregate of the amounts recoverable from the carrier, or the performing carrier as the case may be, and from that servant or agent, shall not exceed those limits.

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### ARTICLE 13

#### Loss of right to limit liability

- 1 The carrier shall not be entitled to the benefit of the limits of liability prescribed in Articles 7 and 8 and paragraph 1 of Article 10, if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
- 2 The servant or agent of the carrier or of the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted from an act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

### ARTICLE 14

#### Basis for claims

No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Convention.

### ARTICLE 15

#### Notice of loss or damage to luggage

- 1 The passenger shall give written notice to the carrier or his agent:
  - (a) in the case of apparent damage to luggage:
    - (i) for cabin luggage, before or at the time of disembarkation of the passenger;
    - (ii) for all other luggage, before or at the time of its re-delivery;
  - (b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen days from the date of disembarkation or re-delivery or from the time when such re-delivery should have taken place.
- 2 If the passenger fails to comply with this Article, he shall be presumed, unless the contrary is proved, to have received the luggage undamaged.
- 3 The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

### ARTICLE 16

#### Time-bar for actions

- 1 Any action for damages arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a period of two years.

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- 2 The limitation period shall be calculated as follows:
  - (a) in the case of personal injury, from the date of disembarkation of the passenger,
  - (b) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three years from the date of disembarkation;
  - (c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.
- 3 The law of the Court seized of the case shall govern the grounds for suspension and interruption of limitation periods, but in no case shall an action under this Convention be brought after the expiration of any one of the following periods of time:
  - (a) A period of five years beginning with the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later; or, if earlier
  - (b) a period of three years beginning with the date when the claimant knew or ought reasonably to have known of the injury, loss or damage caused by the incident.
- 4 Notwithstanding paragraphs 1, 2 and 3 of this Article, the period of limitation may be extended by a declaration of the carrier or by agreement of the parties after the cause of action has arisen. The declaration or agreement shall be in writing.

#### ARTICLE 17

##### Competent jurisdiction

- 1 An action arising under Articles 3 and 4 of this Convention shall, at the option of the claimant, be brought before one of the courts listed below, provided that the court is located in a State Party to this Convention, and subject to the domestic law of each State Party governing proper venue within those States with multiple possible forums:
  - (a) the Court of the State of permanent residence or principal place of business of the defendant, or
  - (b) the Court of the State of departure or that of the destination according to the contract of carriage, or
  - (c) the Court of the State of the domicile or permanent residence of the claimant, if the defendant has a place of business and is subject to jurisdiction in that State, or
  - (d) the Court of the State where the contract of carriage was made, if the defendant has a place of business and is subject to jurisdiction in that State.
- 2 Actions under article 4bis of this Convention shall, at the option of the claimant, be brought before one of the courts where action could be brought against the carrier or performing carrier according to paragraph 1.

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- 3 After the occurrence of the incident which has caused the damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration.

#### **ARTICLE 17bis**

##### **Recognition and enforcement**

- 1 Any judgment given by a court with jurisdiction in accordance with Article 17 which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognised in any State Party, except
- (a) where the judgment was obtained by fraud; or
  - (b) where the defendant was not given reasonable notice and a fair opportunity to present his or her case.
- 2 A judgment recognised under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.
- 3 A State Party to this Protocol may apply other rules for the recognition and enforcement of judgments, provided that their effect is to ensure that judgments are recognised and enforced at least to the same extent as under paragraphs 1 and 2.

#### **ARTICLE 18**

##### **Invalidity of contractual provisions**

Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to the passenger's luggage, purporting to relieve any person liable under this Convention of liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Convention except as provided in Article 8, paragraph 4, and any such provision purporting to shift the burden of proof which rests on the carrier or performing carrier, or having the effect of restricting the options specified in Article 17, paragraphs 1 or 2, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Convention.

#### **ARTICLE 19**

##### **Other conventions on limitation of liability**

This Convention shall not modify the rights or duties of the carrier, the performing carrier, and their servants or agents provided for in international conventions relating to the limitation of liability of owners of seagoing ships.



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## ARTICLE 20

### Nuclear damage

No liability shall arise under this Convention for damage caused by a nuclear incident:

- (a) if the operator of a nuclear installation is liable for such damage under either the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy as amended by its Additional Protocol of 28 January 1964, or the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage, or any amendment or Protocol thereto which is in force; or
- (b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as either the Paris or the Vienna Conventions or any amendment or Protocol thereto which is in force.

## ARTICLE 21

### Commercial carriage by public authorities

This Convention shall apply to commercial carriage undertaken by States or Public Authorities under contract of carriage within the meaning of Article 1.

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**ANNEX**

**CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY  
 IN RESPECT OF LIABILITY FOR THE DEATH OF AND PERSONAL INJURY TO  
 PASSENGERS**

Issued in accordance with the provisions of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002

Name of Ship	Distinctive number or letters	IMO Ship Identification Number	Port of Registry	Name and full address of the principal place of business of the carrier who actually performs the carriage.

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002.

Type of Security.....

Duration of Security .....

Name and address of the insurer(s) and/or guarantor(s)

Name .....

Address .....

.....

This certificate is valid until .....

Issued or certified by the Government of .....

.....

(Full designation of the State)

OR

The following text should be used when a State Party avails itself of Article 4bis, paragraph 3:

The present certificate is issued under the authority of the Government of .....  
 (full designation of the State) by ..... (name of institution or organization)

At ..... On .....  
 (Place) (Date)

.....  
 (Signature and Title of issuing or certifying official)

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**Explanatory Notes:**

- 1 If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.
- 2 If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
- 3 If security is furnished in several forms, these should be enumerated.
- 4 The entry "Duration of Security" must stipulate the date on which such security takes effect.
- 5 The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated."

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## PART II

### PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

#### *Interpretation*

- 1 In this Part of this Schedule any reference to a numbered article is a reference to the article of the Convention which is so numbered and any expression to which a meaning is assigned by article 1 of the Convention has that meaning.

#### *Provisions adapting or supplementing specified articles of the Convention*

- 2 For the purposes of paragraph 2 of article 2, provisions of such an international convention as is mentioned in that paragraph which apart from this paragraph do not have mandatory application to carriage by sea shall be treated as having mandatory application to carriage by sea if it is stated in the contract of carriage for the carriage in question that those provisions are to apply in connection with the carriage.
- 3 The reference to the law of the court in article 6 shall be construed as a reference to the <sup>M14</sup>Law Reform (Contributory Negligence) Act 1945 except that in relation to Northern Ireland it shall be construed as a reference to section 2 of the <sup>M15</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948.

#### **Marginal Citations**

**M14** 1945 c. 28.

**M15** 1948 c. 23 (N.I.).

- 4 The Secretary of State may by order provide that, in relation to a carrier whose principal place of business is in the United Kingdom, paragraph 1 of article 7 shall have effect with the substitution for the limit for the time being specified in that paragraph of a different limit specified in the order (which shall not be lower than [<sup>F13</sup>400,000] units of account).

#### **Textual Amendments**

**F13** Word in Sch. 6 Pt. 2 para. 4 substituted (28.5.2014) by [The Merchant Shipping \(Convention Relating to the Carriage of Passengers and their Luggage by Sea\) Order 2014 \(S.I. 2014/1361\)](#), arts. 1(1), **2(2)** (with arts. 3, 5)

- 5 (1) For the purpose of converting from special drawing rights into sterling the amounts mentioned in articles 7 and 8 of the Convention in respect of which a judgment is given, 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 judgment is given; 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.
- (2) A certificate given by or on behalf of the Treasury stating—
- (a) that a particular sum in sterling has been fixed as mentioned in subparagraph (1) above for a particular day; or

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(b) that no sum has been so fixed for that day and 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 particular day,

shall be conclusive evidence of those matters for the purposes of articles 7 to 9 of the Convention; and 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.

6 It is hereby declared that by virtue of article 12 the limitations on liability there mentioned in respect of a passenger or his luggage apply to the aggregate liabilities of the persons in question in all proceedings for enforcing the liabilities or any of them which may be brought whether in the United Kingdom or elsewhere.

[<sup>F147</sup> Article 16 shall apply to arbitral proceedings as it applies to an action; and, as respects England and Wales and Northern Ireland, the provisions of section 14 of the Arbitration Act 1996 apply to determine for the purposes of that Article when an arbitration is commenced.]

#### Textual Amendments

**F14** Sch. 6 Pt. II para. 7 substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 61**; S.I. 1996/3146, **art. 3** (with **Sch. 2**)

8 The court before which proceedings are brought in pursuance of article 17 to enforce a liability which is limited by virtue of article 12 may at any stage of the proceedings make such orders as appear to the court to be just and equitable in view of the provisions of article 12 and of any other proceedings which have been or are likely to be begun in the United Kingdom or elsewhere to enforce the liability in whole or in part; and without prejudice to the generality of the preceding provisions of this paragraph such a court shall, where the liability is or may be partly enforceable in other proceedings in the United Kingdom or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court or to make any part of its award conditional on the results of any other proceedings.

#### *Other provisions adapting or supplementing the Convention*

9 Any reference in the Convention to a contract of carriage excludes a contract of carriage which is not for reward.

[<sup>F159A</sup> The provisions of the Convention in Part I of this Schedule have effect subject to the reservation made by the United Kingdom (see the reservation set out in the Annex II to Regulation (EC) No 392/2009 of 23 April 2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents).]

#### Textual Amendments

**F15** Sch. 6 Pt. 2 para. 9A inserted (28.5.2014) by **The Merchant Shipping (Convention Relating to the Carriage of Passengers and their Luggage by Sea) Order 2014** (S.I. 2014/1361), arts. 1(1), **2(3)** (with arts. 3, 5)

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- 10 If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Convention in respect of a particular country the Order shall, subject to the provisions of any subsequent Order made by virtue of this paragraph, be conclusive evidence that the State is a party to the Convention in respect of that country.
- 11 The Secretary of State may by order make provision—
- (a) for requiring a person who is the carrier in relation to a passenger to give to the passenger, in a manner specified in the order, notice of such of the provisions of Part I of this Schedule as are so specified;
  - (b) for a person who fails to comply with a requirement imposed on him by the order to be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding level 4 on the standard scale or not exceeding a lesser amount.

*Application of ss. 185 and 186 of this Act*

- 12 It is hereby declared that nothing in the Convention affects the operation of section 185 of this Act (which limits a shipowner's liability in certain cases of loss of life, injury or damage).
- 13 Nothing in section 186 of this Act (which among other things limits a shipowner's liability for the loss or damage of goods in certain cases) shall relieve a person of any liability imposed on him by the Convention.

SCHEDULE 7

Section 185.

CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976

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

- C3** Sch. 7 extended (with modifications) to Anguilla, British Antarctic Territory, British Indian Ocean Territory, South Georgia and South Sandwich Islands (30.11.1997) by 1997/2579, art. 2, Schs. 1, 2

**PART I**

TEXT OF CONVENTION

**CHAPTER I.**

THE RIGHT OF LIMITATION

*Status: Point in time view as at 01/10/2017.*

*Changes to legislation: Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 16 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)*

## ARTICLE 1

### *Persons entitled to limit liability*

- 1 Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.
- 2 The term “shipowner” shall mean the owner, charterer, manager or operator of a seagoing ship.
- 3 Salvor shall mean any person rendering services in direct connection with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1(d), (e) and (f).
- 4 If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.
- 5 In this Convention the liability of a shipowner shall include liability in an action brought against the vessel herself.
- 6 An insurer of liability for claims subject to limitation in accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.
- 7 The act of invoking limitation of liability shall not constitute an admission of liability.

## ARTICLE 2

### *Claims subject to limitation*

- 1 Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation of liability:
  - (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
  - (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
  - (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
  - (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
  - (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
  - (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

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- 2 Claims set out in paragraph 1 shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraph 1(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

### ARTICLE 3

#### *Claims excepted from limitation*

The rules of this Convention shall not apply to:

[<sup>F16</sup>(a) claims for salvage , including, if applicable, any claim form or special compensation under Article 14 of the International Convention on Salvage 1989 as amended , or contributed in general average;]

(b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage dated 29th November 1969 or of any amendment or Protocol thereto which is in force;

(c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;

(d) claims against the shipowner of a nuclear ship for nuclear damage;

(e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

#### **Textual Amendments**

**F16** Sch. 7 Pt. I Ch. I Article 3(a) substituted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258, arts. 3, 8, Sch.](#)

### ARTICLE 4

#### *Conduct barring limitation*

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.



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## ARTICLE 5

### *Counterclaims*

Where a person entitled to limitation of liability under the rules of this Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.

## CHAPTER II.

### LIMITS OF LIABILITY

## ARTICLE 6

### *The general limits*

- [<sup>F17</sup>] The limits of liability for claims, other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:
- (a) in respect of claims for loss of life or personal injury,
    - (i) 3.02 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,
    - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
      - for each ton from 2,001 to 30,000 tons, 1,208 Units of Account;
      - for each ton from 30,001 to 70,000 tons, 906 Units of Account; and
      - for each ton in excess of 70,000 tons, 604 Units of Account,
  - (b) in respect of any other claims,
    - (i) 1.51 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,
    - (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in (i):
      - for each ton from 2,001 to 30,000 tons, 604 Units of Account;
      - for each ton from 30,001 to 70,000 tons, 453 Units of Account; and
      - for each ton in excess of 70,000 tons, 302 Units of Account.]

#### Textual Amendments

**F17** Words in Sch. 7 Pt. 1 Ch. 2 Art. 6 para. 1 substituted (30.11.2016) by [The Merchant Shipping Act 1995 \(Amendment\) Order 2016 \(S.I. 2016/1061\)](#), arts. 1, **3(a)**

- 2 Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b).

*Status: Point in time view as at 01/10/2017.*

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- 4 The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

[<sup>F18</sup>The references in paragraph 1 to relevant limits in this Convention have effect as follows—

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

**Textual Amendments**

**F18** Words in Sch. 7 Pt. 1 Ch. 2 Art. 6 inserted (30.11.2016) by [The Merchant Shipping Act 1995 \(Amendment\) Order 2016 \(S.I. 2016/1061\)](#), arts. 1, **3(b)**

**ARTICLE 7**

*The limit for passenger claims*

- [<sup>F19</sup>1 In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate.]

**Textual Amendments**

**F19** Sch. 7 Pt. I Ch. II Art. 7 para. 1 substituted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258](#), arts. 4(b), 8, **Sch.**

- 2 For the purpose of this Article “claims for loss of life or personal injury to passengers of a ship” shall mean any such claims brought by or on behalf of any person carried in that ship:
- (a) under a contract of passenger carriage, or
  - (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

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## ARTICLE 8

### *Unit of Account*

The Unit of Account referred to in Articles 6 and 7 is the special drawing right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.

## ARTICLE 9

### *Aggregation of claims*

- 1 The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion:
  - (a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or
  - (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or
  - (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.
- 2 The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

## ARTICLE 10

### *Limitation of liability without constitution of a limitation fund*

- 1 Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted.
- 2 If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.
- 3 Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

## CHAPTER III.

### THE LIMITATION FUND

*Status: Point in time view as at 01/10/2017.*

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## ARTICLE 11

### *Constitution of the Fund*

- 1 Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.
- 2 A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.
- 3 A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

## ARTICLE 12

### *Distribution of the fund*

- 1 Subject to the provisions of paragraphs 1 and 2 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.
- 2 If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.
- 3 The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.
- 4 Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

## ARTICLE 13

### *Bar to other actions*

- 1 Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any

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- right in respect of such a claim against any other assets of a person by or on behalf of whom the fund has been constituted.
- 2 After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted:
- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
  - (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
  - (c) at the port of discharge in respect of damage to cargo; or
  - (d) in the State where the arrest is made.
- 3 The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

#### ARTICLE 14

##### *Governing law*

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

#### CHAPTER IV.

##### SCOPE OF APPLICATION

#### ARTICLE 15

- [<sup>F20</sup>2 A State Party may regulate by specific provisions of national law the system of limitation of liability to be applied to vessels which are:
- (a) according to the law of that State, ships intended for navigation on inland waterways;
  - (b) ships of less than 300 tons.

A State Party which makes use of the option provided for in this paragraph shall inform the depositary of the limits of liability adopted in its national legislation or of the fact that there are none.

*3bis.* Notwithstanding the limit of liability prescribed in paragraph 1 of article 7, a State Party may regulate by specific provisions of national law the system of liability to be applied to claims for loss of life or personal injury to passengers of a ship, provided that the limit of liability is not lower than that prescribed in paragraph 1 of article 7. A State Party which makes use of the option provided for in this

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paragraph shall inform the Secretary-General of the limits of liability adopted or of the fact that there are none.]

**Textual Amendments**

**F20** Sch. 7 Pt. I Art. 15 para. 2 inserted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258](#), arts. 5, 8, [Sch.](#)

[<sup>F21</sup>**ARTICLE 18**

*RESERVATIONS]*

**Textual Amendments**

**F21** Sch. 7 Pt. I Art. 18 inserted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258](#), arts. 6, 8, [Sch.](#)

- <sup>F22</sup><sub>1</sub> Any State may, at the time of signature, ratification, acceptance, approval or accession, or at any time thereafter, reserve the right:
- (a) to exclude the application of article 2, paragraphs 1(d) and (e);
  - (b) to exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 <sup>X1</sup> or of any amendment or Protocol thereto.

No other reservations shall be admissible to the substantive provisions of this Convention.

**Editorial Information**

**X1** The text of the Convention is set out in Schedule 5A to this Act.

**Textual Amendments**

**F22** Sch. 7 Pt. I Art. 18 inserted (with effect in accordance with art. 1 of the amending S.I.) by [S.I. 1998/1258](#), arts. 6, 8, [Sch.](#)

**PART II**

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

*Interpretation*

- 1 In this Part of this Schedule any reference to a numbered article is a reference to the article of the Convention which is so numbered.

*Status: Point in time view as at 01/10/2017.*

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### *Right to limit liability*

- 2 [F23 Subject to paragraph 6 below,]the right to limit liability under the Convention shall apply in relation to any ship whether seagoing or not, and the definition of “shipowner” in paragraph 2 of article 1 shall be construed accordingly.

#### **Textual Amendments**

**F23** Words in Sch. 7 Pt. II para. 2 inserted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(a), 8, **Sch.**

F24[F25 2A] .....

#### **Textual Amendments**

**F24** Sch. 7 para. 2A omitted (13.5.2004) by virtue of [The Merchant Shipping \(Convention on Limitation of Liability for Maritime Claims\) \(Amendment\) Order 2004 \(S.I. 2004/1273\)](#), arts. 1, 2

**F25** Sch. 7 Pt. II para. 2A inserted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(b), 8, **Sch.**

### *Claims subject to limitation*

- 3 (1) Paragraph 1(d) of article 2 shall not apply unless provision has been made by an order of the Secretary of State for the setting up and management of a fund to be used for the making to harbour or conservancy authorities of payments needed to compensate them for the reduction, in consequence of the said paragraph 1(d), of amounts recoverable by them in claims of the kind there mentioned, and to be maintained by contributions from such authorities raised and collected by them in respect of vessels in like manner as other sums so raised by them.
- (2) Any order under sub-paragraph (1) above may contain such incidental and supplemental provisions as appear to the Secretary of State to be necessary or expedient.

### *Claims excluded from limitation*

- 4 F26[(1) Claims for Damages within the meaning of the international Convention on Liability and compensation for Damage in connection with the carriage of Hazardous and Noxious Substances by Sea 1996(b), or any amendment of or Protocol to the Convention, which arise from occurrences which take place after the coming into force of the first Order in Council made by Her Majesty under section 182B of this Act shall be excluded from the convention.]
- (2) The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 153 of this Act.
- (3) The claims excluded from the Convention by paragraph (c) of article 3 are claims made by virtue of any of sections 7 to 11 of the <sup>M16</sup>Nuclear Installations Act 1965.

*Status: Point in time view as at 01/10/2017.*

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#### Textual Amendments

**F26** Sch. 7 Pt. II para. 4(1) substituted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(C), 8, **Sch.**

#### Marginal Citations

**M16** 1965 c. 57.

#### *The general limits*

- 5 (1) In the application of article 6 to a ship with a tonnage less than 300 tons that article shall have effect as if—
- (a) paragraph 1(a)(i) referred to [<sup>F27</sup>1,000,000] Units of Account; and
  - (b) paragraph 1(b)(i) referred to [<sup>F27</sup>500,000] Units of Account.
- (2) For the purposes of article 6 and this paragraph 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.
- (3) Any order under this paragraph shall, so far as appears to the Secretary of State to be practicable, give effect to the regulations in Annex I of the International Convention on Tonnage Measurement of Ships 1969.

#### Textual Amendments

**F27** Words in s. 5(1)(a)(b) substituted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(d), 8, **Sch.**

#### *Limit for passenger claims*

- 6 [<sup>F28</sup>(1) Article 7 shall not apply in respect of any sea going ship and shall have effect in respect of any ship which is not as if in paragraph 1 of that article.
- (a) after “thereof” there were inserted “in respect of each passenger,”;
  - (b) the words from “multiplied” onwards were omitted.]
- (2) In paragraph 2 of article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person under the <sup>M17</sup>Fatal Accidents Act 1976, the <sup>M18</sup>Fatal Accidents (Northern Ireland) Order 1977 or the [<sup>F29</sup>Damages (Scotland) Act 2011].

#### Textual Amendments

**F28** Sch. 7 Pt. 2 para. 6(1)(a)(b) substituted for Sch. 7 para. 6(1) (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(e), 8, **Sch.**

**F29** Words in Sch. 7 Pt. 2 para. 6 substituted (7.7.2011) by **Damages (Scotland) Act 2011 (asp 7), s. 19(3), sch. 1 para. 6** (with ss. 17, 19(2)); S.S.I. 2011/268, **art. 3** (with art. 4)

#### Marginal Citations

**M17** 1976 c. 30.



*Status:* Point in time view as at 01/10/2017.

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**M18** S.I. 1977/1258 (NI 18); 1976 c. 13.

#### *Units of Account*

- 7 (1) For the purpose of converting the amounts mentioned in articles 6 and 7 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 relevant date under paragraph 1 of article 8; or
  - (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.
- (2) A certificate given by or on behalf of the Treasury stating—
- (a) that a particular sum in sterling has been fixed as mentioned in sub-paragraph (1) above for a particular date; or
  - (b) that no sum has been so fixed for that date and that a particular sum in sterling has been so fixed for a date which is the last preceding date for which a sum has been so fixed,
- shall be conclusive evidence of those matters for the purposes of those articles; and 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.

#### *Constitution of fund*

- 8 (1) The Secretary of State may, with the concurrence of the Treasury, by order prescribe the rate of interest to be applied for the purposes of paragraph 1 of article 11.
- (2) Any statutory instrument containing an order under sub-paragraph (1) above shall be laid before Parliament after being made.
- (3) Where a fund is constituted with the court in accordance with article 11 for the payment of claims arising out of any occurrence, the court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

#### *Distribution of fund*

- 9 No lien or other right in respect of any ship or property shall affect the proportions in which under article 12 the fund is distributed among several claimants.

#### *Bar to other actions*

- 10 Where the release of a ship or other property is ordered under paragraph 2 of article 13 the person on whose application it is ordered to be released shall be deemed to have submitted to (or, in Scotland, prorogated) the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

#### *Meaning of “court”*

- 11 References in the Convention and the preceding provisions of this Part of this Schedule to the court are references to the High Court or, in relation to Scotland, the Court of Session.

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*Meaning of “ship”*

- 12 References in the Convention and in the preceding provisions of this Part of this Schedule to a ship include references to any structure (whether completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship.

*Meaning of “State Party”*

- [<sup>F30</sup>13 An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention as amended by the 1996 Protocol shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention as amended by the 1996 Protocol.]

**Textual Amendments**

- F30** Sch. 7 Pt. II para. 13 substituted (with effect in accordance with art. 1 of the amending S.I.) by S.I. 1998/1258, arts. 7(f), 8, Sch.

SCHEDULE 8

Section 193.

COMMISSIONERS OF NORTHERN LIGHTHOUSES

- 1 (1) The Commissioners of Northern Lighthouses shall continue to exist under that name as a body corporate constituted as follows.
- (2) The following persons holding the following offices constitute the Commissioners of Northern Lighthouses, that is to say—
- (a) the Lord Advocate and the Solicitor-General for Scotland;
  - (b) the lords provosts of Edinburgh, Glasgow and Aberdeen, and the conveners of the councils for Highland and Argyll and Bute;
  - (c) the sheriffs principal of all the sheriffdoms in Scotland;
  - (d) a person nominated by the Lieutenant Governor of the Isle of Man and appointed by the Secretary of State;
  - (e) any person elected under paragraph 2 below;
  - [<sup>F31</sup>(f) a person appointed by the Secretary of State (in addition to the person nominated under paragraph (d));
  - (g) a person appointed by the Scottish Ministers.]

**Textual Amendments**

- F31** Sch. 8 para. 1(2)(f)(g) inserted (23.5.2016) by Scotland Act 2016 (c. 11), ss. 55(2), 72(7)

- 2 (1) The Commissioners may elect, as members of their body, the convener of any council whose area includes any part of the coasts of Scotland.
- (2) The Commissioners may elect, as members of their body, not more than [<sup>F32</sup>three] other persons; but a person shall not be elected in pursuance of this sub-paragraph unless either he appears to the Commissioners to have special knowledge and

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experience of nautical matters or three persons who so appear are members of that body.

**Textual Amendments**

**F32** Word in [Sch. 8 para. 2\(2\)](#) substituted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 55\(3\)](#), [72\(7\)](#)

- 3 A person appointed by the Secretary of State under paragraph 1(2)(d) above, or a person appointed by the Commissioners under paragraph 2(2) above, shall hold office for three years, but shall be eligible for re-appointment.
- 4 (1) Any five of the Commissioners shall constitute a quorum.
- (2) The Commissioners constituting a quorum shall have power to do all such matters and things as might be done by the whole body.
- [<sup>F33</sup>4A (1) The Commissioners shall send to the Scottish Ministers a copy of any accounts that they have been required to provide under section 218.
- (2) The Scottish Ministers shall lay those accounts before the Scottish Parliament.
- (3) The Commissioners shall send to the Scottish Ministers any report made under section 198(4)(b) (reports on inspections).
- (4) The Scottish Ministers shall lay any such report before the Scottish Parliament.]

**Textual Amendments**

**F33** [Sch. 8 para. 4A](#) inserted (23.5.2016) by [Scotland Act 2016 \(c. 11\)](#), [ss. 55\(4\)](#), [72\(7\)](#)

- 5 In this Schedule “council” means a council constituted under section 2 of the <sup>M19</sup>Local Government etc. (Scotland) Act 1994.

**Marginal Citations**

**M19** [1994 c. 39](#).

<sup>F34</sup>SCHEDULE 9

**Textual Amendments**

**F34** [Sch. 9](#) 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.](#)

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## SCHEDULE 10

Section 210.

## LOCAL LIGHT DUES: OBJECTIONS

The modifications to which section 31 of the <sup>M20</sup>Harbours Act 1964 is subject in its application in relation to local light dues by virtue of section 210 are as follows—

- (a) references to charges shall be construed as references to local light dues;
- (b) subsection (1) shall be omitted;
- (c) in subsection (2), for the words from “a charge” to “maintaining or managing” there shall be substituted the words “ a local light due imposed under section 210 of the Merchant Shipping Act 1995 by a local lighthouse authority ”, and the words “passengers or goods” (in both places) shall be omitted;
- (d) in subsection (6)(b), the reference to subsection (2) shall be construed as referring to that subsection as modified by paragraph (c) above;
- (e) in subsection (8), for the reference to a harbour authority there shall be substituted a reference to a local lighthouse authority;
- (f) in subsection (9), for the reference to the harbour authority concerned there shall be substituted a reference to the local lighthouse authority concerned;
- (g) in subsection (10), for the words “a charge imposed at a harbour” there shall be substituted the words “ a local light due imposed by a local lighthouse authority ”; and
- (h) subsection (13) shall be omitted.

**Marginal Citations**

M20 1964 c. 40.

**Marginal Citations**

M20 1964 c. 40.

<sup>F35</sup>SCHEDULE 11

Section 224(1)(2).

## INTERNATIONAL CONVENTION ON SALVAGE 1989

**Textual Amendments**

**F35** Sch. 11 extended (with modifications) to Jersey (22.8.1997) by [S.I. 1997/1773](#), [art. 2](#), [Sch.](#)  
Sch. 11 extended (with modifications) to each territory as stated in Sch. 1 of the amending S.I.  
(30.11.1997) by [S.I. 1997/2586](#), [art. 2](#), [Schs. 1, 2](#)

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## PART I

### TEXT OF CONVENTION

#### CHAPTER I

##### — GENERAL PROVISIONS

#### ARTICLE 1

##### *Definitions*

For the purpose of this Convention—

- (a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.
- (b) Vessel means any ship or craft, or any structure capable of navigation.
- (c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.
- (d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.
- (e) Payment means any reward, remuneration or compensation due under this Convention.
- (f) Organisation means the International Maritime Organisation.
- (g) Secretary-General means the Secretary-General of the Organisation.

#### ARTICLE 2

##### *Application of the Convention*

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

#### ARTICLE 3

##### *Platforms and drilling units*

This Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

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#### ARTICLE 4

##### *State-owned vessels*

- 1 Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that State decides otherwise.
- 2 Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

#### ARTICLE 5

##### *Salvage operations controlled by public authorities*

- 1 This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.
- 2 Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.
- 3 The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

#### ARTICLE 6

##### *Salvage contracts*

- 1 This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.
- 2 The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.
- 3 Nothing in this article shall affect the application of article 7 nor duties to prevent or minimise damage to the environment.

#### ARTICLE 7

##### *Annulment and modification of contracts*

A contract or any terms thereof may be annulled or modified if—

- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or

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(b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

## CHAPTER II

### — PERFORMANCE OF SALVAGE OPERATIONS

#### ARTICLE 8

##### *Duties of the salvor and of the owner and master*

- 1 The salvor shall owe a duty to the owner of the vessel or other property in danger—
  - (a) to carry out the salvage operations with due care;
  - (b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimise damage to the environment;
  - (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
  - (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.
- 2 The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor—
  - (a) to co-operate fully with him during the course of the salvage operations;
  - (b) in so doing, to exercise due care to prevent or minimise damage to the environment; and
  - (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

#### ARTICLE 9

##### *Rights of coastal States*

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognised principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

#### ARTICLE 10

##### *Duty to render assistance*

- 1 Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.

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- 2 The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.
- 3 The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

## ARTICLE 11

### *Co-operation*

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

## CHAPTER III

### — RIGHTS OF SALVORS

## ARTICLE 12

### *Conditions for reward*

- 1 Salvage operations which have had a useful result give right to a reward.
- 2 Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.
- 3 This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

## ARTICLE 13

### *Criteria for fixing the reward*

- 1 The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below—
  - (a) the salvaged value of the vessel and other property;
  - (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
  - (c) the measure of success obtained by the salvor;
  - (d) the nature and degree of the danger;
  - (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
  - (f) the time used and expenses and losses incurred by the salvors;
  - (g) the risk of liability and other risks run by the salvors or their equipment;



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- (h) the promptness of the services rendered;
  - (i) the availability and use of vessels or other equipment intended for salvage operations;
  - (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.
- 2 Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.
- 3 The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

## ARTICLE 14

### *Special compensation*

- 1 If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.
- 2 If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30 per cent. of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100 per cent. of the expenses incurred by the salvor.
- 3 Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).
- 4 The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.
- 5 If the salvor has been negligent and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.
- 6 Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

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## ARTICLE 15

### *Apportionment between salvors*

- 1 The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.
- 2 The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

## ARTICLE 16

### *Salvage of persons*

- 1 No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.
- 2 A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimising damage to the environment.

## ARTICLE 17

### *Services rendered under existing contracts*

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

## ARTICLE 18

### *The effect of salvor's misconduct*

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

## ARTICLE 19

### *Prohibition of salvage operations*

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

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## CHAPTER IV

### — CLAIMS AND ACTIONS

#### ARTICLE 20

##### *Maritime lien*

- 1 Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.
- 2 The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

#### ARTICLE 21

##### *Duty to provide security*

- 1 Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.
- 2 Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.
- 3 The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

#### ARTICLE 22

##### *Interim payment*

- 1 The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.
- 2 In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

#### ARTICLE 23

##### *Limitation of actions*

- 1 Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years.

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The limitation period commences on the day on which the salvage operations are terminated.

- 2 The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.
- 3 An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

## ARTICLE 24

### *Interest*

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

## ARTICLE 25

### *State-owned cargoes*

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings *in rem* against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

## ARTICLE 26

### *Humanitarian cargoes*

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

## ARTICLE 27

### *Publication of arbitral awards*

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

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## PART II

### PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

#### *Interpretation*

- 1 In this Part of this Schedule “the Convention” means the Convention as set out in Part I of this Schedule and any reference to a numbered article is a reference to the article of the Convention which is so numbered.

#### *Claims excluded from Convention*

- 2 (1) The provisions of the Convention do not apply—
- (a) to a salvage operation which takes place in inland waters of the United Kingdom and in which all the vessels involved are of inland navigation; and
  - (b) to a salvage operation which takes place in inland waters of the United Kingdom and in which no vessel is involved.
- (2) In this paragraph “inland waters” does not include any waters within the ebb and flow of the tide at ordinary spring tides or the waters of any dock which is directly or (by means of one or more other docks) indirectly, connected with such waters.

#### *Assistance to persons in danger at sea*

- 3 (1) The master of a vessel who fails to comply with the duty imposed on him by article 10, paragraph 1 commits an offence and shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (2) Compliance by the master of a vessel with that duty shall not affect his right or the right of any other person to a payment under the Convention or under any contract.

#### *The reward and special compensation: the common understanding*

- 4 In fixing a reward under article 13 and assessing special compensation under article 14 the court or arbitrator (or, in Scotland, arbiter) is under no duty to fix a reward under article 13 up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under article 14.

#### *Recourse for life salvage payment*

- 5 (1) This paragraph applies where—
- (a) services are rendered wholly or in part in United Kingdom waters in saving life from a vessel of any nationality or elsewhere in saving life from any United Kingdom ship; and
  - (b) either—
    - (i) the vessel and other property are destroyed, or
    - (ii) the sum to which the salvor is entitled under article 16, paragraph 2 is less than a reasonable amount for the services rendered in saving life.

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- (2) Where this paragraph applies, the Secretary of State may, if he thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as he thinks fit in respect of the services rendered in saving life.

*Meaning of “judicial proceedings”*

- 6 References in the Convention to judicial proceedings are references to proceedings—
- (a) in England and Wales, in the High Court or the county court;
  - (b) in Scotland, in the Court of Session or in the sheriff court;
  - (c) in Northern Ireland, in the High Court;
- and any reference to the tribunal having jurisdiction (so far as it refers to judicial proceedings) shall be construed accordingly.

*Meaning of “State Party”*

- 7 (1) An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention in respect of a specified country shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention in respect of that country.
- (2) In this paragraph “country” includes “territory”.

[<sup>F36</sup>SCHEDULE 11ZA

WRECKS CONVENTION

**Textual Amendments**

**F36** Sch. 11ZA inserted (5.2.2015 for specified purposes, 14.4.2015 in so far as not already in force) by [Wreck Removal Convention Act 2011 \(c. 8\)](#), ss. 1(4), 2(2), [Sch.](#); [S.I. 2015/133](#), arts. 2, 3

<sup>F36</sup>Preamble:

<sup>F36</sup>THE STATES PARTIES TO THE PRESENT CONVENTION,

<sup>F36</sup>CONSCIOUS of the fact that wrecks, if not removed, may pose a hazard to navigation or the marine environment,

<sup>F36</sup>CONVINCED of the need to adopt uniform international rules and procedures to ensure the prompt and effective removal of wrecks and payment of compensation for the costs therein involved,

<sup>F36</sup>NOTING that many wrecks may be located in States' territory, including the territorial sea,

<sup>F36</sup>RECOGNIZING the benefits to be gained through uniformity in legal regimes governing responsibility and liability for removal of hazardous wrecks,

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<sup>F36</sup>BEARING IN MIND the importance of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, and of the customary international law of the sea, and the consequent need to implement the present Convention in accordance with such provisions,

<sup>F36</sup>HAVE AGREED as follows:

### **Article 1** **Definitions**

For the purposes of this Convention:

- 1 “Convention area” means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.
- 2 “Ship” means a seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submarines, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources.
- 3 “Maritime casualty” 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 its cargo.
- 4 “Wreck”, following upon a maritime casualty, means:
  - (a) a sunken or stranded ship; or
  - (b) any part of a sunken or stranded ship, including any object that is or has been on board such a ship; or
  - (c) any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or
  - (d) a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.
- 5 “Hazard” means any condition or threat that:
  - (a) poses a danger or impediment to navigation; or
  - (b) may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of one or more States.
- 6 “Related interests” means the interests of a coastal State directly affected or threatened by a wreck, such as:
  - (a) maritime coastal, port and estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
  - (b) tourist attractions and other economic interests of the area concerned;
  - (c) the health of the coastal population and the wellbeing of the area concerned, including conservation of marine living resources and of wildlife; and
  - (d) offshore and underwater infrastructure.

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- 7 “Removal” means any form of prevention, mitigation or elimination of the hazard created by a wreck. “Remove”, “removed” and “removing” shall be construed accordingly.
- 8 “Registered 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 at the time of the maritime casualty. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, “registered owner” shall mean such company.
- 9 “Operator of the ship” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended.
- 10 “Affected State” means the State in whose Convention area the wreck is located.
- 11 “State of the ship's registry” means, in relation to a registered ship, the State of registration of the ship and, in relation to an unregistered ship, the State whose flag the ship is entitled to fly.
- 12 “Organization” means the International Maritime Organization.
- 13 “Secretary-General” means the Secretary-General of the Organization.

## **Article 2**

### **Objectives and general principles**

- 1 A State Party may take measures in accordance with this Convention in relation to the removal of a wreck which poses a hazard in the Convention area.
- 2 Measures taken by the Affected State in accordance with paragraph 1 shall be proportionate to the hazard.
- 3 Such measures shall not go beyond what is reasonably necessary to remove a wreck which poses a hazard and shall cease as soon as the wreck has been removed; they shall not unnecessarily interfere with the rights and interests of other States including the State of the ship's registry, and of any person, physical or corporate, concerned.
- 4 The application of this Convention within the Convention area shall not entitle a State Party to claim or exercise sovereignty or sovereign rights over any part of the high seas.
- 5 States Parties shall endeavour to co-operate when the effects of a maritime casualty resulting in a wreck involve a State other than the Affected State.

## **Article 3**

### **Scope of application**

- 1 Except as otherwise provided in this Convention, this Convention shall apply to wrecks in the Convention area.
- 2 A State Party may extend the application of this Convention to wrecks located within its territory, including the territorial sea, subject to article 4, paragraph 4. In that case, it shall notify the Secretary-General accordingly, at the time of expressing



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its consent to be bound by this Convention or at any time thereafter. When a State Party has made a notification to apply this Convention to wrecks located within its territory, including the territorial sea, this is without prejudice to the rights and obligations of that State to take measures in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing them in accordance with this Convention. The provisions of articles 10, 11 and 12 of this Convention shall not apply to any measures so taken other than those referred to in articles 7, 8 and 9 of this Convention.

3 When a State Party has made a notification under paragraph 2, the “Convention area” of the Affected State shall include the territory, including the territorial sea, of that State Party.

4 A notification made under paragraph 2 above shall take effect for that State Party, if made before entry into force of this Convention for that State Party, upon entry into force. If notification is made after entry into force of this Convention for that State Party, it shall take effect six months after its receipt by the Secretary-General.

5 A State Party that has made a notification under paragraph 2 may withdraw it at any time by means of a notification of withdrawal to the Secretary-General. Such notification of withdrawal shall take effect six months after its receipt by the Secretary-General, unless the notification specifies a later date.

#### **Article 4**

##### **Exclusions**

1 This Convention shall not apply to measures taken under the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, as amended, or the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973, as amended.

2 This Convention shall not apply to any warship or other ship owned or operated by a State and used, for the time being, only on Government non-commercial service, unless that State decides otherwise.

3 Where a State Party decides to apply this Convention to its warships or other ships as described in paragraph 2, it shall notify the Secretary-General, thereof, specifying the terms and conditions of such application.

4 (a) When a State Party has made a notification under article 3, paragraph 2, the following provisions of this Convention shall not apply in its territory, including the territorial sea:

(i) Article 2, paragraph 4;

(ii) Article 9, paragraphs 1, 5, 7, 8, 9 and 10; and

(iii) Article 15.

(b) Article 9, paragraph 4, insofar as it applies to the territory, including the territorial sea of a State Party, shall read: “ Subject to the national law of the Affected State, the registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment. ”

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## **Article 5**

### **Reporting wrecks**

- 1 A State Party shall require the master and the operator of a ship flying its flag to report to the Affected State without delay when that ship has been involved in a maritime casualty resulting in a wreck. To the extent that the reporting obligation under this article has been fulfilled either by the master or the operator of the ship, the other shall not be obliged to report.
- 2 Such reports shall provide the name and the principal place of business of the registered owner and all the relevant information necessary for the Affected State to determine whether the wreck poses a hazard in accordance with article 6, including:
  - (a) the precise location of the wreck;
  - (b) the type, size and construction of the wreck;
  - (c) the nature of the damage to, and the condition of, the wreck;
  - (d) the nature and quantity of the cargo, in particular any hazardous and noxious substances; and
  - (e) the amount and types of oil, including bunker oil and lubricating oil, on board.

## **Article 6**

### **Determination of hazard**

When determining whether a wreck poses a hazard, the following criteria should be taken into account by the Affected State:

- (a) the type, size and construction of the wreck;
- (b) depth of the water in the area;
- (c) tidal range and currents in the area;
- (d) particularly sensitive sea areas identified and, as appropriate, designated in accordance with guidelines adopted by the Organization, or a clearly defined area of the exclusive economic zone where special mandatory measures have been adopted pursuant to article 211, paragraph 6, of the United Nations Convention on the Law of the Sea, 1982;
- (e) proximity of shipping routes or established traffic lanes;
- (f) traffic density and frequency;
- (g) type of traffic;
- (h) nature and quantity of the wreck's cargo, the amount and types of oil (such as bunker oil and lubricating oil) on board the wreck and, in particular, the damage likely to result should the cargo or oil be released into the marine environment;
- (i) vulnerability of port facilities;
- (j) prevailing meteorological and hydrographical conditions;
- (k) submarine topography of the area;
- (l) height of the wreck above or below the surface of the water at lowest astronomical tide;
- (m) acoustic and magnetic profiles of the wreck;
- (n) proximity of offshore installations, pipelines, telecommunications cables and similar structures; and
- (o) any other circumstances that might necessitate the removal of the wreck.

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## **Article 7**

### **Locating wrecks**

- 1 Upon becoming aware of a wreck, the Affected State shall use all practicable means, including the good offices of States and organizations, to warn mariners and the States concerned of the nature and location of the wreck as a matter of urgency.
- 2 If the Affected State has reason to believe that a wreck poses a hazard, it shall ensure that all practicable steps are taken to establish the precise location of the wreck.

## **Article 8**

### **Marking of wrecks**

- 1 If the Affected State determines that a wreck constitutes a hazard, that State shall ensure that all reasonable steps are taken to mark the wreck.
- 2 In marking the wreck, all practicable steps shall be taken to ensure that the markings conform to the internationally accepted system of buoyage in use in the area where the wreck is located.
- 3 The Affected State shall promulgate the particulars of the marking of the wreck by use of all appropriate means, including the appropriate nautical publications.

## **Article 9**

### **Measures to facilitate the removal of wrecks**

- 1 If the Affected State determines that a wreck constitutes a hazard, that State shall immediately:
  - (a) inform the State of the ship's registry and the registered owner; and
  - (b) proceed to consult the State of the ship's registry and other States affected by the wreck regarding measures to be taken in relation to the wreck.
- 2 The registered owner shall remove a wreck determined to constitute a hazard.
- 3 When a wreck has been determined to constitute a hazard, the registered owner, or other interested party, shall provide the competent authority of the Affected State with evidence of insurance or other financial security as required by article 12.
- 4 The registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.
- 5 When the removal referred to in paragraphs 2 and 4 has commenced, the Affected State may intervene in the removal only to the extent necessary to ensure that the removal proceeds effectively in a manner that is consistent with considerations of safety and protection of the marine environment.
- 6 The Affected State shall:
  - (a) set a reasonable deadline within which the registered owner must remove the wreck, taking into account the nature of the hazard determined in accordance with article 6;

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- (b) inform the registered owner in writing of the deadline it has set and specify that, if the registered owner does not remove the wreck within that deadline, it may remove the wreck at the registered owner's expense; and
  - (c) inform the registered owner in writing that it intends to intervene immediately in circumstances where the hazard becomes particularly severe.
- 7 If the registered owner does not remove the wreck within the deadline set in accordance with paragraph 6(a), or the registered owner cannot be contacted, the Affected State may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.
- 8 In circumstances where immediate action is required and the Affected State has informed the State of the ship's registry and the registered owner accordingly, it may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.
- 9 States Parties shall take appropriate measures under their national law to ensure that their registered owners comply with paragraphs 2 and 3.
- 10 States Parties give their consent to the Affected State to act under paragraphs 4 to 8, where required.
- 11 The information referred to in this article shall be provided by the Affected State to the registered owner identified in the reports referred to in article 5, paragraph 2.

## **Article 10**

### ***Liability of the owner***

- 1 Subject to article 11, the registered owner shall be liable for the costs of locating, marking and removing the wreck under articles 7, 8 and 9, respectively, unless the registered owner proves that the maritime casualty that caused the wreck:
- (a) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character;
  - (b) was wholly caused by an act or omission done with intent to cause damage by a third party; or
  - (c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.
- 2 Nothing in this Convention shall affect the right of the registered owner to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.
- 3 No claim for the costs referred to in paragraph 1 may be made against the registered owner otherwise than in accordance with the provisions of this Convention. This is without prejudice to the rights and obligations of a State Party that has made a notification under article 3, paragraph 2, in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing in accordance with this Convention.
- 4 Nothing in this article shall prejudice any right of recourse against third parties.

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## **Article 11**

### **Exceptions to liability**

- 1 The registered owner shall not be liable under this Convention for the costs mentioned in article 10, paragraph 1 if, and to the extent that, liability for such costs would be in conflict with:
- (a) the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended;
  - (b) the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended;
  - (c) the Convention on Third Party Liability in the Field of Nuclear Energy, 1960, as amended, or the Vienna Convention on Civil Liability for Nuclear Damage, 1963, as amended; or national law governing or prohibiting limitation of liability for nuclear damage; or
  - (d) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended;
- provided that the relevant convention is applicable and in force.
- 2 To the extent that measures under this Convention are considered to be salvage under applicable national law or an international convention, such law or convention shall apply to questions of the remuneration or compensation payable to salvors to the exclusion of the rules of this Convention.

## **Article 12**

### **Compulsory insurance or other financial security**

- 1 The registered owner of a ship of 300 gross tonnage and above and flying the flag of a State Party shall be required to maintain insurance or other financial security, such as a guarantee of a bank or similar institution, to cover liability under this Convention in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases not exceeding an amount calculated in accordance with article 6(1)(b) of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.
- 2 A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship of 300 gross tonnage and above by the appropriate authority of the State of the ship's registry after determining that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in the annex to this Convention, and shall contain the following particulars:
- (a) name of the ship, distinctive number or letters and port of registry;
  - (b) gross tonnage of the ship;
  - (c) name and principal place of business of the registered owner;
  - (d) IMO ship identification number;
  - (e) type and duration of security;

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- (f) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
- (g) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other security.
- 3 (a) A State Party may authorize either an institution or an organization recognized by it to issue the certificate referred to in paragraph 2. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.
- (b) A State Party shall notify the Secretary-General of:
- (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognized by it;
  - (ii) the withdrawal of such authority; and
  - (iii) the date from which such authority or withdrawal of such authority takes effect.
- An authority delegated shall not take effect prior to three months from the date on which notification to that effect was given to the Secretary-General.
- (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not maintained. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.
- 4 The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages and, where the State so decides, the official language(s) of the State may be omitted.
- 5 The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authorities issuing or certifying the certificate.
- 6 An insurance or other financial security shall not satisfy the requirements of this article if it can cease for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5 unless certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification, which results in the insurance or security no longer satisfying the requirements of this article.
- 7 The State of the ship's registry shall, subject to the provisions of this article and having regard to any guidelines adopted by the Organization on the financial responsibility of the registered owners, determine the conditions of issue and validity of the certificate
- 8 Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organizations relating to the financial standing of providers of insurance or financial security for the purposes of this Convention. In such cases,

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- the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate required by paragraph 2.
- 9 Certificates issued and certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the certificate is not financially capable of meeting the obligations imposed by this Convention.
- 10 Any claim for costs arising under this Convention may be brought directly against the insurer or other person providing financial security for the registered owner's liability. In such a case the defendant may invoke the defences (other than the bankruptcy or winding up of the registered owner) that the registered owner would have been entitled to invoke, including limitation of liability under any applicable national or international regime. Furthermore, even if the registered owner is not entitled to limit liability, the defendant may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained in accordance with paragraph 1. Moreover, the defendant may invoke the defence that the maritime casualty was caused by the wilful misconduct of the registered owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the registered owner against the defendant. The defendant shall in any event have the right to require the registered owner to be joined in the proceedings.
- 11 A State Party shall not permit any ship entitled to fly its flag to which this article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 14.
- 12 Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security to the extent required by paragraph 1 is in force in respect of any ship of 300 gross tonnage and above, wherever registered, entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea.
- 13 Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 12, ships are not required to carry on board or to produce the certificate required by paragraph 2, when entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea, provided that the State Party which issues the certificate required by paragraph 2 has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 12.
- 14 If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authority of the State of registry, stating that it is owned by that State and that the ship's liability is covered within the limits prescribed in paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

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### **Article 13**

#### **Time limits**

Rights to recover costs under this Convention shall be extinguished unless an action is brought hereunder within three years from the date when the hazard has been determined in accordance with this Convention. However, in no case shall an action be brought after six years from the date of the maritime casualty that resulted in the wreck. Where the maritime casualty consists of a series of occurrences, the six-year period shall run from the date of the first occurrence.

### **Article 14**

#### **Amendment provisions**

- 1 At the request of not less than one-third of States Parties, a conference shall be convened by the Organization for the purpose of revising or amending this Convention.
- 2 Any consent to be bound by this Convention, expressed after the date of entry into force of an amendment to this Convention, shall be deemed to apply to this Convention, as amended.

### **Article 15**

#### **Settlement of disputes**

- 1 Where a dispute arises between two or more States Parties regarding the interpretation or application of this Convention, they shall seek to resolve their dispute, in the first instance, through negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice.
- 2 If no settlement is possible within a reasonable period of time not exceeding twelve months after one State Party has notified another that a dispute exists between them, the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea, 1982, shall apply *mutatis mutandis*, whether or not the States party to the dispute are also States Parties to the United Nations Convention on the Law of the Sea, 1982.
- 3 Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea, 1982, pursuant to Article 287 of the latter, shall apply to the settlement of disputes under this article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.
- 4 A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, 1982, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of the United Nations Convention on the Law of the Sea, 1982, for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, 1982, such State shall be entitled to nominate conciliators and arbitrators



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to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.

- 5 A declaration made under paragraphs 3 and 4 shall be deposited with the Secretary-General, who shall transmit copies thereof to the States Parties.

### **Article 16**

#### ***Relationship to other conventions and international agreements***

Nothing in this Convention shall prejudice the rights and obligations of any State under the United Nations Convention on the Law of the Sea, 1982, and under the customary international law of the sea.

### **Article 17**

#### ***Signature, ratification, acceptance, approval and accession***

This Convention shall be open for signature at the Headquarters of the Organization from 19 November 2007 until 18 November 2008 and shall thereafter remain open for accession.

- (a) States may express their consent to be bound by this Convention by:
- (i) signature without reservation as to ratification, acceptance or approval; or
  - (ii) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (iii) accession.
- (b) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

### **Article 18**

#### ***Entry into force***

- 1 This Convention shall enter into force twelve months following the date on which ten States have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General.
- 2 For any State which ratifies, accepts, approves or accedes to this Convention after the conditions in paragraph 1 for entry into force have been met, this Convention shall enter into force three months following the date of deposit by such State of the appropriate instrument, but not before this Convention has entered into force in accordance with paragraph 1.

### **Article 19**

#### ***Denunciation***

- 1 This Convention may be denounced by a State Party at any time after the expiry of one year following the date on which this Convention comes into force for that State.
- 2 Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General.
- 3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, following its receipt by the Secretary-General.

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## **Article 20**

### **Depositary**

- 1 This Convention shall be deposited with the Secretary General.
- 2 The Secretary-General shall:
- (a) inform all States which have signed or acceded to this Convention of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
    - (ii) the date of entry into force of this Convention;
    - (iii) the deposit of any instrument of denunciation of this Convention, together with the date of the deposit and the date on which the denunciation takes effect; and
    - (iv) other declarations and notifications received pursuant to this Convention;
  - (b) transmit certified true copies of this Convention to all States that have signed or acceded to this Convention.
- 3 As soon as this Convention enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations, for registration and publication in accordance with Article 102 of the Charter of the United Nations.

## **Article 21**

### **Languages**

The Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.”]

## [<sup>F37</sup>SCHEDULE 11A

### FUNDING OF MARITIME SERVICES]

#### **Textual Amendments**

**F37** Sch. 11A inserted (19.3. 1997) by 1997 c. 28, ss. 13, 31(4), **Sch. 2 para. 2**

### *Interpretation*

- 1 In this Schedule—
- “general light dues” and “general lighthouse authority” have the same meaning as in Part VIII of this Act;
  - “prescribe” means prescribe by regulations.

### *Charges in respect of maritime matters*

- 2 (1) Regulations under this Schedule may make provision imposing charges for the purpose of recovering the whole or a part of the costs incurred by the Secretary of State in connection with his maritime functions.

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- (2) In sub-paragraph (1) above “maritime functions” means—
- (a) functions conferred by or under any provision of this Act apart from Part II or Part VIII,
  - (b) functions under any international agreement relating to—
    - (i) the safety of ships,
    - (ii) the prevention of pollution from ships, or
    - (iii) living and working conditions on board ships, and
  - (c) other functions relating to the promotion of the safety of ships.

*Charges relating to expenses payable out of General Lighthouse Fund*

- 3 (1) If—
- (a) any [<sup>F38</sup>EU] obligation, or
  - (b) any international agreement made between any three or more countries including the Republic of Ireland and ratified by the United Kingdom,
- requires the United Kingdom to provide for any of the costs incurred by general lighthouse authorities in respect of lighthouses, buoys and beacons to be recovered otherwise than by means of the levying of general light dues in accordance with section 205 (as it has effect on the commencement of this Schedule), regulations under this Schedule may make provision imposing charges for the purposes of recovering all or any part of the costs required to be so recovered.
- (2) In this paragraph “buoys and beacons” includes equipment which is intended as an aid to the navigation of ships and, subject to that, expressions used in this paragraph and in Part VIII of this Act have the same meaning as in that Part.

**Textual Amendments**

**F38** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), [art. 6](#) (with [art. 3\(3\)](#))

*Ships in respect of which charges may be imposed*

- 4 (1) Regulations under this Schedule may not require a charge to be paid except in respect of—
- (a) a ship which has entered a port in the United Kingdom,
  - (b) a ship which is anchored off a port in the United Kingdom, or
  - (c) a ship which is anchored within 500 metres of an installation which is in United Kingdom waters or a part of the sea specified by virtue of section 129(2)(b).
- (2) Nothing in any regulations under this Schedule shall be construed as requiring a charge to be paid in respect of a qualifying foreign ship which is exercising—
- (a) the right of innocent passage, or
  - (b) the right of transit passage through straits used for international navigation, except to the extent that international law allows such a charge to be imposed.
- (3) Subject to sub-paragraphs (1) and (2) above, the regulations may impose a charge in respect of such description of ship as may be prescribed.

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- (4) In particular—
- (a) regulations may impose a charge in respect of a ship even though no service has been provided or function exercised in the case of that ship; and
  - (b) regulations may provide that no charge is imposed in respect of a ship which does not exceed a prescribed tonnage or does not exceed a prescribed length.
- (5) For the purposes of sub-paragraph (1)(a) above, the circumstances in which a ship shall be regarded as entering a port in the United Kingdom include circumstances in which the ship enters any United Kingdom waters which are regulated or managed by a harbour authority.
- (6) In sub-paragraph (1)(c) above “installation” means an installation which—
- (a) is an offshore installation within the meaning of the <sup>M21</sup>Mineral Workings (Offshore Installations) Act 1971; or
  - (b) is to be taken to be an installation for the purposes of sections 21 to 23 of the <sup>M22</sup>Petroleum Act 1987.

#### Marginal Citations

**M21** 1971 c. 61.

**M22** 1987 c. 12.

#### *Persons by whom charges to be paid*

- 5 (1) Regulations under this Schedule may not require a charge to be paid in respect of a ship by a person who is not—
- (a) the owner of the ship;
  - (b) the person registered as the owner of the ship;
  - (c) the operator of the ship;
  - (d) the manager of the ship;
  - (e) the charterer of the ship; or
  - (f) the agent of a person mentioned in any of paragraphs (a) to (e) above.
- (2) Subject to sub-paragraph (1) above, charges imposed by the regulations shall be payable by such persons as may be prescribed.

#### *Amount of charges*

- 6 (1) Regulations under this Schedule may impose a charge—
- (a) of a fixed amount, or
  - (b) of an amount determined in accordance with the regulations,
- and may impose different charges in relation to ships of different descriptions or in different circumstances.
- (2) Regulations under this Schedule may, in particular, impose in respect of a ship a charge whose amount depends on—
- (a) whether action has been or is being taken with a view to—
    - (i) enforcing international shipping standards in the case of that ship, or
    - (ii) preventing, reducing or minimising the effects of pollution from that ship; and

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(b) if any such action has been or is being so taken, the nature of the action.

(3) Regulations under this Schedule may, in particular, impose in respect of a ship a charge whose amount depends on the tonnage or length of the ship.

#### *Powers to require information*

7 (1) Regulations under this Schedule may include provision requiring any relevant authority or any person who is or may be liable to pay charges under the regulations in respect of a ship, to provide any collecting authority with such information as the collecting authority may reasonably require for the purposes of the regulations.

(2) In this paragraph—

“collecting authority” means—

- (a) the Secretary of State,
- (b) a Departmental officer, and
- (c) a general lighthouse authority;

“relevant authority” means—

- (a) a harbour authority,
- (b) the Commissioners of Customs and Excise, and
- (c) a conservancy authority.

#### *Disclosure of information*

8 (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 the Secretary of State, or
- (b) to a person appointed by the Secretary of State to collect charges under regulations made under this Schedule,

information for the purpose of enabling or assisting the Secretary of State to perform his functions under the regulations.

(2) Information obtained by any person by virtue of sub-paragraph (1) above shall not be disclosed by him to any other person except where the disclosure is made—

- (a) to a person falling within sub-paragraph (1)(a) or (b) above, or
- (b) for the purposes of any legal proceedings arising out of the regulations.

#### *Collection and recovery, etc.*

9 (1) Regulations under this Schedule may make provision—

- (a) with respect to the collection and recovery of charges; and
- (b) for charges which fall due under the regulations but which are not paid to carry interest.

(2) Regulations made under this Schedule by virtue of sub-paragraph (1) above may in particular confer on general lighthouse authorities functions relating to the collection and recovery of charges.

10 Regulations under this Schedule may make provision for appeals against decisions that charges are due in respect of ships.

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### *Distress*

- 11 Regulations under this Schedule may make provision in respect of England and Wales and Northern Ireland—
- (a) for authorising distress to be levied on any ship in respect of which the owner or master has failed to pay charges due under the regulations, and on any goods, equipment or other thing belonging to, or on board, the ship,
  - (b) for the disposal of any ship, goods, equipment or other thing on which distress is levied in accordance with the regulations, and
  - (c) for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under regulations made by virtue of paragraph (a) or (b) above.

### *Further powers in relation to General Lighthouse Fund etc*

- 12 If regulations under this Schedule make any provision by virtue of paragraph 3 above, regulations under this Schedule may also—
- (a) provide for payments which, apart from the regulations, would fall to be made out of the General Lighthouse Fund to be made by the Secretary of State out of money provided by Parliament,
  - (b) provide for amounts which, apart from the regulations, would fall to be paid into the General Lighthouse Fund (other than general light dues levied in accordance with section 205) to be paid by the Secretary of State into the Consolidated Fund,
  - (c) provide for the payment out of money provided by Parliament into the General Lighthouse Fund of amounts representing the whole or part of any charges imposed by virtue of paragraph 3, and
  - (d) make such amendments, repeals or other modifications of any of the provisions of this Act relating to the General Lighthouse Fund or general light dues as appear to the Secretary of State to be necessary or expedient in consequence of, or in connection with, the provision made by virtue of paragraph 3 above or paragraph (a), (b) or (c) above.
- 13 If regulations under this Schedule make any provision by virtue of paragraph 9(2) above, regulations under this Schedule may also provide for the making by the Secretary of State to each general lighthouse authority out of money provided by Parliament of payments in respect of expenses incurred by that authority in connection with the collection or recovery of charges.

### *Supplementary*

- 14 Regulations under this Schedule may include such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or appropriate.
- 15 Any sums received in consequence of regulations under this Schedule shall be paid into the Consolidated Fund.
- 16 (1) Regulations under this Schedule shall be made by the Secretary of State with the consent of the Treasury.
- (2) Regulations shall not be made under this Schedule unless a draft of them has been laid before, and approved by a resolution of, the House of Commons.

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## SCHEDULE 12

Section 314.

### REPEALS

#### Commencement Information

- II** Sch. 12 partly in force: Sch. 12 in force at 1.1.1996 (see s. 316(2)) except as mentioned in s. 314(1)(3), Sch. 14 para. 5

Chapter or number	Short title	Extent of repeal
17 & 18 Vict. c.120.	Merchant Shipping Repeal Act 1854.	Section 7.
34 & 35 Vict. c.xxi.	Lloyd's Act 1871.	Section 33.
57 & 58 Vict. c.60.	Merchant Shipping Act 1894.	Section 66. Section 76. Section 82. Section 84. Sections 287 and 288. Section 422. Section 449. Section 458. Sections 510 to 513. Sections 515 and 516. Sections 518 to 525. Section 527. Sections 530 to 537. Sections 551 to 553. Sections 555 to 557. Sections 566 to 568. Section 569(2). Section 570. Section 571. Sections 634 to 636. Sections 638 and 639. Sections 642 to 643A. Sections 647 to 656. Section 657 so far as relating to Northern Ireland.

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		Sections 658 to 660.
		Sections 662 to 662B.
		Section 664.
		Sections 666 to 669.
		Sections 676 and 677.
		Sections 679 to 681.
		Sections 683 to 687B.
		Section 688 so far as relating to Scotland.
		ction 689.
		Sections 691 to 693.
		Sections 695 to 697.
		Sections 702 and 703.
		Sections 710 to 715.
		Sections 717 and 718.
		Sections 720 to 724.
		Sections 726 to 728.
		Sections 731 and 732.
		Sections 735 and 736.
		Section 738(1) and (2).
		Section 739.
		Sections 741 to 743
		Sections 745 to 747.
		Schedule 17.
		Schedule 19.
60 & 61 Vict. c.21.	Mersey Channels Act 1897.	The whole Act.
60 & 61 Vict. c.59.	Merchant Shipping Act 1897.	The whole Act.
61 & 62 Vict. c.44.	Merchant Shipping (Mercantile Marine Fund) Act 1898.	Sections 1 and 1A.
		Section 2(3) so far as relating to the Sombrero lighthouse in the Leeward Islands.
		Sections 2A and 2B.
		Section 5(1)(2).
		Section 9.



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		In Schedule 3, the entry for the Sombrero lighthouse in the Leeward Islands.
63 & 64 Vict. c.32.	Merchant Shipping (Liability of Ship- owners and Others) Act 1900.	Sections 2 to 5.
6 Edw.7 c.48.	Merchant Shipping Act 1906.	Section 72. Sections 75 and 76. Sections 78 to 80. Sections 84 and 86.
1 & 2 Geo.5 c.57.	Maritime Conventions Act 1911.	Sections 1 to 3 and 4(2). Sections 5 to 10.
9 & 10 Geo.5 c.62.	British Mercantile Marine Uniform Act 1919.	The whole Act.
9 & 10 Geo.5 c.92.	Aliens Restriction (Amendment) Act 1919.	Section 5.
10 & 11 Geo.5 c.2.	Merchant Shipping (Amendment) Act 1920.	The whole Act.
10 & 11 Geo.5 c.39.	Merchant Shipping (Scottish Fishing Boats) Act 1920.	The whole Act.
11 & 12 Geo.5 c.28.	Merchant Shipping Act 1921.	Sections 2 to 4.
22 & 23 Geo.5 c.4.	Statute of Westminster 1931.	Section 5
22 & 23 Geo.5 c.9.	Merchant Shipping (Safety and Load Line Conventions) Act 1932.	Section 5(2) and (3). Section 8. Section 24. Section 62(1) and (3). Section 69. Sections 73 and 74. Schedule 1.
2 & 3 Geo.6 c.83.	Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939.	Section 6(3).
11 & 12 Geo.6 c.7.	Ceylon Independence Act 1947.	In Schedule 1, paragraph 3.
11 & 12 Geo.6 c.44	Crown Proceedings Act 1947	Sections 5 to 8. Section 30.
11 & 12 Geo.6 c.44.	Merchant Shipping Act 1948.	Section 5.

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12, 13 & 14 Geo.6 c.29.	Consular Conventions Act 1949.	Section 5(2).
12, 13 & 14 Geo.6 c.43.	Merchant Shipping (Safety Conventions) Act 1949.	Section 22.  Section 25.  Section 32.  Section 34.  Section 35(1).  Sections 36 (so far as unrepealed) and 37.  In Schedule 1, paragraph 1.
14 Geo.6 c.9.	Merchant Shipping Act 1950.	Sections 7 and 8.
14 Geo.6 c.27.	Arbitration Act 1950.	In section 29, subsection (1) and in subsection (2) the words preceding “an arbitration”.
4 & 5 Eliz.2 c.46.	Administration of Justice Act 1956.	In section 47(2)(n) the words from “(including” to “way of wages)”.  Section 49(1).  In Part I of Schedule 1, in paragraph 1(1)(j), from the beginning to “cases” and, in paragraph 1(3), the words “sections five hundred and forty-four to five hundred and forty-six of the Merchant Shipping Act, 1894, or”.
5 & 6 Eliz.2 c.6.	Ghana Independence Act 1957.	In Schedule 1, paragraph 4.  In Schedule 2, paragraphs 7 and 8.
5 & 6 Eliz.2 c.60.	Federation of Malaya Independence Act 1957.	In Schedule 1, paragraphs 9 and 10.
8 & 9 Eliz.2 c.52.	Cyprus Act 1960.	In the Schedule, paragraph 10.
8 & 9 Eliz.2 c.55.	Nigeria Independence Act 1960.	In Schedule 1, paragraph 4.  In Schedule 2, paragraphs 7 and 8.
9 & 10 Eliz.2 c.1.	Tanganyika Independence Act 1961.	In Schedule 1, paragraph 4.

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		In Schedule 2, paragraphs 7 and 8.
9 & 10 Eliz.2 c.16	Sierre Leone Independence Act 1961.	In Schedule 2, paragraph 4.
		In Schedule 3, paragraphs 8 and 9.
10 & 11 Eliz.2 c.23.	South Africa Act 1962.	In Schedule 3, paragraph 6.
10 & 11 Eliz.2 c.30.	Northern Ireland Act 1962.	Section 25(1)(a).
10 & 11 Eliz.2 c.40.	Jamaica Independence Act 1962.	In Schedule 1, paragraph 4.
		In Schedule 2, paragraphs 7 and 8.
10 & 11 Eliz.2 c.54	Trinidad and Tobago Independence Act 1962.	In Schedule 1, paragraph 4.
		In Schedule 3, paragraphs 7 and 8.
10 & 11 Eliz.2 c.57.	Uganda Independence Act 1962.	In Schedule 1, paragraph 4.
		In Schedule 2, paragraphs 7 and 8.
1963 c.54.	Kenya Independence Act 1963.	In Schedule 1, paragraph 4.
		In Schedule 2, paragraphs 7 and 8.
1963 c.55.	Zanzibar Act 1963.	In Schedule 1, paragraph 8.
1964 c.26.	Licensing Act 1964.	Section 158.
1964 c.40.	Harbours Act 1964.	Section 29(2) and (3). Section 30(2). In section 30(3) the words from “and no charge” to the end. Section 35.
1964 c.46.	Malawi Independence Act 1964.	In Schedule 1, paragraph 4(a). In Schedule 2, paragraphs 7 and 8.
1964 c.47.	Merchant Shipping Act 1964.	Section 9 so far as unrepealed. Section 11. Section 16.

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		Sections 19 and 20.
1964 c.86.	Malta Independence Act 1964.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraphs 7 and 8.
1964 c.93.	Gambia Independence Act 1964.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraphs 7 and 8.
1965 c.32.	Administration of Estates (Small Payments) Act 1965.	Section 6(1)(c).
1965 c.47.	Merchant Shipping Act 1965.	The whole Act so far as unrepealed.
1966 c.14.	Guyana Independence Act 1966.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraphs 7 and 8.
1966 c.29.	Singapore Act 1966.	In the Schedule, paragraphs 10 and 11.
1966 c.37.	Barbados Independence Act 1966.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraphs 7 and 8.
1967 c.27.	Merchant Shipping (Load Lines) Act 1967.	Sections 1 to 25.
		Section 27(1), (3) and (5).
		Sections 30 to 34.
		Schedules 1 and 2.
1968 c.8.	Mauritius Independence Act 1968.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraphs 7 and 8.
1969 c.48.	Post Office Act 1969.	In section 3, in subsection (1) the words from “and the first reference” to “to navigation” and, in subsection (6) the words from “and section 36” to the end.
1970 c.27.	Fishing Vessels (Safety Provisions) Act 1970.	Section 1.
		Section 2(1).
		Sections 3 to 5.

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1970 c.36.	Merchant Shipping Act 1970.	Section 7. Sections 9 to 11. Sections 1 to 5. Sections 7 to 18. Section 20. Section 22. Sections 25 to 28. Section 30. Sections 32 and 33. Sections 39 to 41. Sections 43 to 54. Sections 56 to 64. Sections 67 to 72. Sections 74 to 83. Section 85. Section 86. Section 88. Section 91. Sections 95 to 101. Schedules 1 to 5.
1970 c.50.	Fiji Independence Act 1970.	In Schedule 1, paragraph 4(a). In Schedule 2, paragraph 6.
1971 c.59.	Merchant Shipping (Oil Pollution) Act 1971.	The whole Act.
1971 c.60.	Prevention of Oil Pollution Act 1971.	Section 2(2A) and (2B). Section 5. Section 6(1)(a). Section 7. Section 8(2) Section 10. In section 11, in subsection (1), paragraphs (a) and (b) and the words “the owner or master of the vessel, or” and “, as the case may be,” and subsection (2).

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		Sections 12 to 17.
		Section 18(4).
		Section 19(2)(b) and (c).
		Section 19A.
		Section 20.
		Section 21.
		Section 23 so far as it relates to vessels.
		Section 24.
		Section 25(2) and (3).
		Section 27(4).
		In section 29(1) the definitions of—
		“barge”; and
		“outside the territorial waters of the United Kingdom”; and
		subsections (2), (4), (5) and (6).
		Section 30(1) and (2).
1972 c.5 (N.I.).	Water Act (Northern Ireland) 1972.	Section 32(3).
1972 c.11.	Superannuation Act 1972.	Section 17.
1973 c.27.	Bahamas Independence Act 1973.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraph 5.
1973 c.49.	Bangladesh Act 1973.	In the Schedule, paragraph 6.
1974 c.43.	Merchant Shipping Act 1974.	Sections 1 to 8A.
		Sections 16 to 18.
		Section 19(1) and (3) to (6).
		Section 21.
		Sections 23 and 24.
		Schedules 1 and 5.
1976 c.19.	Seychelles Act 1976.	In the Schedule, paragraph 6.
1978 c.15.	Solomon Islands Act 1978.	In the Schedule, paragraph 4.
1978 c.20.	Tuvalu Act 1978.	In Schedule 1, paragraph 4(a).
		In Schedule 2, paragraph 4.

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1979 c.27.	Kiribati Act 1979.	In the Schedule, paragraph 5.
1979 c.39.	Merchant Shipping Act 1979.	Sections 14 to 39. Sections 41 to 43. Section 45. Sections 48 to 52. Schedules 3 to 7.
1980 c.2.	Papua New Guinea, Western Samoa and Nauru (Miscellaneous Provisions) Act 1980.	In the Schedule, paragraphs 4 and 5.
1980 c.16.	New Hebrides Act 1980.	In Schedule 1, paragraph 5.
1981 c.10.	Merchant Shipping Act 1981.	The whole Act.
1981 c.52.	Belize Act 1981.	In Schedule 1, paragraph 4(a).  In Schedule 2, paragraph 4.
1981 c.54.	[ <sup>F39</sup> Senior Courts Act 1981].	In section 153(4)(d), the words from “section 13(1)” to “1974”.  In Schedule 5, the entries relating to the Merchant Shipping (Oil Pollution) Act 1971 and the Merchant Shipping Act 1974.
S.I. 1981/226 (NI 6).	Judgments Enforcement (Northern Ireland) Order 1981.	In Schedule 2, paragraph 17.
S.I. 1981/1675 (NI 26).	Magistrates’ Courts (Northern Ireland) Order 1981.	In Part I of Schedule 6, paragraphs 18 and 19.
1982 c.16.	Civil Aviation Act 1982.	Section 97(1).
1982 c.27.	Civil Jurisdiction and Judgments Act 1982.	In section 32(4)(a) the words “section 13(3) of the Merchant Shipping (Oil Pollution) Act 1971”.
1982 c.48.	Criminal Justice Act 1982.	Section 49.  Section 81(13).  In Schedule 7, paragraph 1. In Schedule 14, paragraph 2. In Schedule 15, paragraphs 3 to 5.
1984 c.5.	Merchant Shipping Act 1984.	Sections 1 to 12.  Section 14.

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		Schedule 1.
		Schedule 2.
1984 c.28.	County Courts Act 1984.	Section 27(11).
1985 c.3.	Brunei and Maldives Act 1985.	In the Schedule, paragraph 1.
1985 c.22.	Dangerous Vessels Act 1985.	Section 4.
1986 c.2.	Australia Act 1986.	Section 4.
1986 c.6.	Prevention of Oil Pollution Act 1986.	The whole Act.
1986 c.23.	Safety at Sea Act 1986.	Sections 7 to 13. Section 15.
1986 c.64.	Public Order Act 1986.	In section 10(1), the words “and in section 515 of the Merchant Shipping Act 1894”.
S.I. 1986/1035 (NI 9).	Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.	In Part II of Schedule 1, the entries relating to the Prevention of Oil Pollution Act 1971 and the Merchant Shipping Act 1974.
1988 c.12.	Merchant Shipping Act 1988.	Section 11. Sections 26 to 35. Sections 41 to 49. Section 52. Sections 53 and 55 except for purposes of section 37. Section 57(1) and (3) to (5) In Schedule 1, paragraph 48. Schedule 4. Schedules 5 to 8.
S.I. 1989/1339 (NI 11).	Limitation (Northern Ireland) Order 1989.	In Schedule 3, paragraph 11.
1990 c.31.	Aviation and Maritime Security Act 1990.	In section 51(2), the words “section 94 of the Merchant Shipping Act 1970”. In Schedule 3, paragraph 2.
1990 c.41.	Courts and Legal Services Act 1990.	In Schedule 10, paragraph 55.
1990 c.43.	Environmental Protection Act 1990	Section 148.



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		Schedule 14 except so far as the amendments relate to offences under section 2(1) of the Prevention of Oil Pollution Act 1971.
1991 c.52.	Ports Act 1991.	Sections 31 to 34. Section 36(2)(c). In section 41, in subsection (1) the words “31 to” and “36(2)(c)” and subsection (2). Section 42(2).
S.I. 1991/1219 (NI 10).	Dangerous Vessels (Northern Ireland) Order 1991.	Article 6.
1993 c.8.	Judicial Pensions and Retirement Act 1993.	In Schedule 6, paragraph 59.
1993 c.22.	Merchant Shipping (Registration, etc.) Act 1993.	The whole Act.
1994 c.28.	Merchant Shipping (Salvage and Pollution) Act 1994.	The whole Act.
1994 c.39.	The Local Government etc. (Scotland) Act 1994.	In Schedule 13, paragraph 7.

#### Textual Amendments

**F39** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604](#), art. 2(d)

*Notes.* The repeals of sections 5 to 7, 29(2) and 30(1) of the Prevention of Oil Pollution Act 1971 do not apply so far as those provisions relate to sections 2(1) and (3) of that Act.

The repeals in the Crown Proceedings Act 1947 apply in relation to Her Majesty’s Government in Northern Ireland as they apply in relation to Her Majesty’s Government in the United Kingdom.

## SCHEDULE 13

Section 314.

### CONSEQUENTIAL AMENDMENTS

#### *General Pier and Harbour Act 1861 Amendment Act 1862 (c. 19)*

1 In section 21 of the General Pier and Harbour Act 1861 Amendment Act 1862, for “Merchant Shipping Act 1854” substitute “Merchant Shipping Act 1995”.

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*Sea Fisheries Act 1868 (c. 45)*

F40<sub>2</sub> .....

**Textual Amendments**

**F40** Sch. 13 para. 2 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(r), **Sch. 23 para. 32(3)**

*Lloyd's Act 1871 (c. xxi)*

3 In section 41 of the Lloyd's Act 1871, for “Merchant Shipping Act 1854”, in both places where it occurs, substitute “ Merchant Shipping Act 1995 ”.

*Slave Trade Act 1873 (c. 88)*

F41<sub>4</sub> .....

**Textual Amendments**

**F41** Sch. 13 para. 4 repealed (19.11.1998) by 1998 c. 43, s. 1(1), **Sch. 1 Pt. VIII**

*Explosives Act 1875 (c. 17)*

F42<sub>5</sub> .....

**Textual Amendments**

**F42** Sch. 13 para. 5 repealed: (26.4.2005) by The Manufacture and Storage of Explosives Regulations 2005 (S.I. 2005/1082), reg. 1(1), Sch. 5 para. 20, **Sch. 6** (with reg. 3); and (N.I.) (1.12.2006) by The Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 (S.R. 2006/425), reg. 1, Sch. 6 para. 15, **Sch. 7 Pt. 1** (with reg. 26)

*Explosive Substances Act 1883 (c. 3)*

6 In section 8(2) of the Explosive Substances Act 1883, for “Merchant Shipping Act 1873” substitute “ safety regulations under section 85 of the Merchant Shipping Act 1995 ”

*Submarine Telegraph Act 1885 (c. 49)*

F43<sub>7</sub> In the Submarine Telegraph Act 1885—

- (a) in section 5(1), for the words from the beginning to “collisions” substitute “ Safety regulations under section 85 of the Merchant Shipping Act 1995 ”; and
- (b) in section 7, for “Part X of the Merchant Shipping Act 1854 (which relates to legal procedure), and the enactments amending the same, so far as unrepealed,” substitute “ Part XII of the Merchant Shipping Act 1995 (legal proceedings) ”.

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**Textual Amendments**

**F43** By [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 141](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11) it is provided that (22.4.2014) [Sch. 13 para. 7\(2\)](#) and [\(4\)](#) are repealed

*Foreign Jurisdiction Act 1890 (c. 37)*

8 In Schedule 1 to the Foreign Jurisdiction Act 1890, at the end insert—

“1995 c. 21. Merchant Shipping Act Chapter II of Part VI.”  
1995.

*Fisheries Act 1891 (c. 37)*

F44<sup>9</sup> .....

**Textual Amendments**

**F44** [Sch. 13 para. 9](#) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(r), [Sch. 23 para. 32\(3\)](#)

*Commissioners for Oaths Act 1891 (c. 50)*

10 In section 1 of the Commissioners for Oaths Act 1891, for “Merchant Shipping Acts 1854 to 1889” substitute “ Merchant Shipping Act 1995 ”.

*Seal Fisheries (North Pacific) Act 1895 (c.21)*

F45<sup>11</sup> .....

**Textual Amendments**

**F45** [Sch. 13 para. 11](#) repealed (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 22 Pt. 5\(C\)](#); S.I. 2010/298, art. 2, Sch. para. 12

*Seal Fisheries (North Pacific) Act 1912 (c. 10)*

F46<sup>12</sup> .....

**Textual Amendments**

**F46** [Sch. 13 para. 12](#) repealed (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 22 Pt. 5\(C\)](#); S.I. 2010/298, art. 2, Sch. para. 12

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*Trustee Act 1925 (c. 19)*

- 13 In section 51(6) of the Trustee Act 1925, for “Acts relating to merchant shipping” substitute “ Merchant Shipping Act 1995 ”.

*Whaling Industry (Regulations) Act 1934 (c. 49)*

- 14 In section 17(1) of the Whaling Industry (Regulations) Act 1934, in the definition of “ship”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Public Health Act 1936 (c. 49)*

- 15 In section 343(1) of the Public Health Act 1936, in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ ship ” in the Merchant Shipping Act 1995.

*Public Health (Drainage of Trade Premises) Act 1937 (c. 40)*

- 16 In section 14 of the Public Health (Drainage of Trade Premises) Act 1937, for “section seven hundred and forty-two of the Merchant Shipping Act 1894” substitute “ the Merchant Shipping Act 1995 ”.

*Superannuation (Various Services) Act 1938 (c. 13)*

- 17 In Part I of the Schedule to the Superannuation (Various Services) Act 1938, for “Merchant Shipping (Mercantile Marine Fund) Act 1898, section 1A, as inserted by section 17 of the Superannuation Act 1972” substitute “ Merchant Shipping Act 1995, section 214 ”.

*Compensation (Defence) Act 1939 (c. 75)*

- 18 In section 17(1) of the Compensation (Defence) Act 1939, in the definitions of “ship” and “vessel”, for “have respectively the same meaning as in the Merchant Shipping Act 1894” substitute “ have the same meaning as “ship” in the Merchant Shipping Act 1995 ”.

*Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (c. 83)*

- 19 In the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939—
- (a) in section 4(4), in the definition of “lightship”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in section 10, in the definition of “ship”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Public Health (Scotland) Act 1945 (c.15)*

- 20 In section 1(8) of the Public Health (Scotland) Act 1945, in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ ship ” in the Merchant Shipping Act 1995.

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*Crown Proceedings Act 1947 (c. 44)*

- 21 In section 38(2) of the Crown Proceedings Act 1947—
- (a) in the definition of “His Majesty’s ships”, for “Merchant Shipping Acts 1894 to 1940” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in the definition of “ship”, for “meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act 1894” substitute “ the same meaning as in the Merchant Shipping Act 1995 ”.

*British Nationality Act 1948 (c. 56)*

- 22 In section 3(1) of the British Nationality Act 1948, for “Merchant Shipping Acts 1894 to 1948” substitute “ Merchant Shipping Act 1995 ”.

*Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23 (N.I.))*

- 23 In section 4(2) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948, for “section one of the Maritime Conventions Act, 1911,” substitute “ section 187 of the Merchant Shipping Act 1995 ”.

*Wireless Telegraphy Act 1949 (c. 54)*

- <sup>F47</sup>24 .....

**Textual Amendments**

**F47** Sch. 13 para. 24 repealed (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), s. 126(2), [Sch. 9 Pt. 1](#) (with [Sch. 8 Pt. 1](#))

*Coast Protection Act 1949 (c. 74)*

- 25 In section 49(1) of the Coast Protection Act 1949, in the definitions of “conservancy authority” and “harbour authority”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Registered Designs Act 1949 (c. 88)*

- <sup>F48</sup>26 .....

**Textual Amendments**

**F48** Sch. 13 para. 26 repealed (9.12.2001) by [S.I. 2001/3949](#), reg. 9(2), [Sch. 2](#) (with transitional provisions in [regs. 10-14](#))

*Rivers (Prevention of Pollution) (Scotland) Act 1951 (c.66)*

- 27 In section 29(4) of the Rivers (Prevention of Pollution) (Scotland) Act 1951 for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

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*Post Office Act 1953 (c. 36)*

F49 28 .....

**Textual Amendments**

**F49** Sch. 13 para. 28 repealed (1.1.2001) by 2000 c. 26, s. 127(6), **Sch. 9**; S.I. 2000/2957, art. 2(2), **Sch. 2**

*Administration of Justice Act 1956 (c. 46)*

- 29 (1) The Administration of the Justice Act 1956 shall be amended as follows.
- (2) In section 47—
- (a) in subsection (2)(n), the words from “(including” to “way of wages)” shall cease to have effect; and
  - (b) in subsection (8)(a) for “section 1 of the Merchant Shipping Salvage and Pollution Act 1994” substitute “ section 224 of the Merchant Shipping Act 1995 ”.
- (3) In section 48(f)—
- (a) in the definition of “collision regulations”, for the words from “regulations” to the end substitute “ safety regulations under section 85 of the Merchant Shipping Act 1995 ”; and
  - (b) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.
- (4) In Part I of Schedule 1—
- (a) in paragraph 1—
    - (i) in sub-paragraph (1)(o), for “Merchant Shipping Acts 1894 to 1954” substitute “ Merchant Shipping Act 1995 ”; and
    - (ii) in sub-paragraph (4), for “Merchant Shipping Acts 1894 to 1954” substitute “ Merchant Shipping Act 1995 ”.
  - (b) in paragraph 7(1), for “five hundred and fifty-two of the Merchant Shipping Act 1894” substitute “ 226 of the Merchant Shipping Act 1995 ”; and
  - (c) in paragraph 8(1)—
    - (i) in the definition of “collision regulations”, for the words from “section 21” to the end substitute “ section 85 of the Merchant Shipping Act 1995 ”; and
    - (ii) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Trustee Act (Northern Ireland) 1958 (c. 23 (N.I.))*

- 30 In section 51(7) of the Trustee Act (Northern Ireland) 1958, for “Acts relating to merchant shipping” substitute “ Merchant Shipping Act 1995 ”.

*Factories Act 1961 (c. 34)*

- 31 In section 176(1) of the Factories Act 1961, for the definitions of “ship”, “vessel” and “harbour” substitute “ “ship” and “vessel” have the same meaning as “ship”

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in the Merchant Shipping Act 1995, and “harbour” has the same meaning as in the Merchant Shipping Act 1995; ”.

*Pipe-Lines Act 1962 (c. 58)*

- 32 In section 39(4) of the Pipe-Lines Act 1962, for “section 8 of the Prevention of Oil Pollution Act 1971” substitute “ section 151 of the Merchant Shipping Act 1995 ”.

*Harbours Act 1964 (c. 40)*

- 33 In section 57(1) of the Harbours Act 1964—
- (a) in the definition of “harbour”, for “meaning assigned to it by section 742 of the Merchant Shipping Act 1894” substitute “ same meaning as in the Merchant Shipping Act 1995 ”; and
  - (b) in the definition of “lighthouse”, for “meaning assigned to it by section 742 of the Merchant Shipping Act 1894” substitute “ same meaning as in the Merchant Shipping Act 1995 ”.

*Contracts of Employment and Redundancy  
Payments Act (Northern Ireland) 1965 (c. 19 (N.I.))*

- 34 In section 6(1)(c) of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) (excluded categories of employees), for “Merchant Shipping (Registration, etc.) Act 1993” substitute “ Part II of the Merchant Shipping Act 1995 ”.

*Factories Act (Northern Ireland) 1965 (c. 20 (N.I.))*

- 35 In section 176(1) of the Factories Act (Northern Ireland) 1965, for the definitions of “ship”, “vessel” and “harbour” substitute “ship” and “vessel” have the same meaning as “ship” in the Merchant Shipping Act 1995, and “harbour” has the same meaning as in the Merchant Shipping Act 1995;

*Fisheries Act (Northern Ireland) 1966 (c. 17 (N.I.))*

- 36 In the Fisheries Act (Northern Ireland) 1966—
- (a) in section 163(3), for “Merchant Shipping (Registration, etc.) Act 1993” substitute “ Part II of the Merchant Shipping Act 1995 ”; and
  - (b) in section 174(4), for “Merchant Shipping (Registration, etc.) Act 1993” substitute “ Part II of the Merchant Shipping Act 1995 ”.

*Finance Act 1966 (c. 18)*

- 37 In section 2(5)(a) of the Finance Act 1966, for “Merchant Shipping Acts 1894 to 1965” substitute “ Merchant Shipping Act 1995 ”, and for “those Acts” substitute “ that Act ”.

*Sea Fish (Conservation) Act 1967 (c. 84)*

- 38 In the Sea Fish (Conservation) Act 1967—
- [<sup>F50</sup>(a) for section 1(9), substitute—

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“(9) In this section—

“British fishing boat” means a fishing boat which either is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995 or is owned wholly by persons qualified to own British ships for the purposes of that Part of that Act; and

“foreign fishing boat” means any fishing boat other than a British fishing boat.”;]

[<sup>F50</sup>(b) in section 5(8)(b), for “Merchant Shipping (Registration, etc.) Act 1993” substitute “ Merchant Shipping Act 1995 ”; and]

(c) in section 22(1), for the definition of “British-owned” substitute—

““British-owned”, in relation to a fishing boat, means owned by a person who is for the purposes of Part II of the Merchant Shipping Act 1995 a person qualified to own a British ship, or owned by two or more persons any one of whom is for those purposes a person so qualified;”.

#### Textual Amendments

**F50** Sch. 13 para. 38(a)(b) repealed (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), [Sch. 22 Pt. 5\(A\)](#); S.I. 2009/3345, art. 2, Sch. para. 27(b)

#### *Public Health Act (Northern Ireland) 1967 (c. 36 (N.I.))*

39 In section 32 of the Public Health Act (Northern Ireland) 1967, in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ “ship” in the Merchant Shipping Act 1995 ”.

#### *Consular Relations Act 1968 (c. 18)*

40 In the Consular Relations Act 1968—

(a) in section 13(3), in paragraph (b), for “Merchant Shipping Acts 1894 to 1967” substitute “ Merchant Shipping Act 1995 ”; and

(b) in section 15, for “685 or section 686 of the Merchant Shipping Act 1894” substitute “ 280 or section 281 of the Merchant Shipping Act 1995 ”.

#### *Countryside Act 1968 (c. 41)*

41 In section 13(6)(a) of the Countryside Act 1968, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

#### *Hovercraft Act 1968 (c. 59)*

42 In section 1(1)(i) of the Hovercraft Act 1968—

(a) in sub-paragraph (ii), for the words after “1924” substitute “ sections 185 and 186 of the Merchant Shipping Act 1995 so far as those sections relate to property on board a ship ”; and

(b) in sub-paragraph (iii), for the words after “hovercraft” (where it occurs last) substitute “ sections 185 and 186 of the Merchant Shipping Act 1995 ”.



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*Sea Fisheries Act 1968 (c. 77)*

- 43 In the Sea Fisheries Act 1968—
- (a) in section 8(6)—
    - (i) for “418 of the Merchant Shipping Act 1894” substitute “ 85 of the Merchant Shipping Act 1995 ”;
    - (ii) for “723(1) of that Act (enforcement)” substitute “ 257 of the Merchant Shipping Act 1995 (powers to require production of ships documents) ”;
    - (iii) for “subsection” substitute “ section ”; and
    - (iv) for “723(2)” substitute “ 257 ”.
  - (b) in section 17, for “72 of the Merchant Shipping Act 1906 (wreck brought within the limits of the United Kingdom)” substitute “ 236(1) of the Merchant Shipping Act 1995 (delivery of wreck to receiver) ”, and for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”; and
  - (c) in section 19(1)—
    - (i) for the definitions of “British fishing boat” and “foreign fishing boat” substitute—

““British fishing boat” means a fishing boat which either is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995 or is wholly British-owned;” and
    - (ii) in the appropriate places insert—

““foreign fishing boat” means any fishing boat other than a British fishing boat;” and

““wholly British-owned” means wholly owned by persons qualified to own British ships for the purposes of Part II of the Merchant Shipping Act 1995;”.

*Harbours Act (Northern Ireland) 1970 (c. 1 (N.I.))*

- 44 In Part II of Schedule 1 to the Harbours Act (Northern Ireland) 1970, in paragraph 7, for “section 2 of the Merchant Shipping (Liability of Shipowners and Others) Act 1900” substitute “ section 191 of the Merchant Shipping Act 1995 ”.

*Carriage of Goods by Sea Act 1971 (c. 19)*

- 45 (1) The Carriage of Goods by Sea Act 1971 shall be amended as follows (“the Rules” meaning the Rules set out in the Schedule to that Act).
- (2) Section 1 shall continue to have effect with the addition, after “1968”, of “ and by the Protocol signed at Brussels on 21st December 1979 ”.
- (3) After section 1 insert the following section—

**“1A Conversion of special drawing rights into sterling.**

- (1) For the purposes of Article IV of the Rules the value on a particular day of one special drawing right shall be treated as equal to such a sum in sterling

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as the International Monetary Fund have fixed as being the equivalent of one special drawing right—

- (a) for that day; or
- (b) if no sum has been so fixed for that day, for the last day before that day for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Treasury stating—

- (a) that a particular sum in sterling has been fixed as aforesaid for a particular day; or
- (b) that no sum has been so fixed for a particular 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 particular day,

shall be conclusive evidence of those matters for the purposes of subsection (1) above; and 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.

(3) The Treasury may charge a reasonable fee for any certificate given in pursuance of subsection (2) above, and any fee received by the Treasury by virtue of this subsection shall be paid into the Consolidated Fund.”

(4) For section 6(4) substitute—

“(4) It is hereby declared that for the purposes of Article VIII of the Rules section 186 of the Merchant Shipping Act 1995 (which entirely exempts shipowners and others in certain circumstances for loss of, or damage to, goods) is a provision relating to limitation of liability.”

(5) Article IV of the Rules shall continue to have effect with the following amendments—

- (a) for “the equivalent of 10,000 francs” substitute “ 666.67 units of account ”;
- (b) for “30 francs per kilo” substitute “ 2 units of account per kilogramme ”; and
- (c) for paragraph 5(d) substitute—

“(d) The unit of account mentioned in this Article is the special drawing right as defined by the International Monetary Fund. The amounts mentioned in sub-paragraph (a) of this paragraph shall be converted into national currency on the basis of the value of that currency on a date to be determined by the law of the Court seized of the case.”

(6) Article 4, paragraph 5(d) of the Rules shall continue to have effect as if the date there mentioned were the date of the judgment in question.

(7) Article X of the Rules shall continue to have effect as if references to a Contracting State included references to a State that is a contracting State in respect of the Rules without the amendments made by the Protocol signed at Brussels on 21st December 1979 as well as to one that is a contracting State in respect of the Rules as so amended, and section 2 shall have effect accordingly.

*Attachment of Earnings Act 1971 (c. 32)*

In section 24(3) of the Attachment of Earnings Act 1971, for the words following “above” substitute—

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““fishing boat” means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing or in the sea-fishing service;

“seaman” includes every person (except masters and pilots) employed or engaged in any capacity on board any ship; and

“wages” includes emoluments.”

*Industry Act 1972 (c. 63)*

47 In section 12(2)(a) of the Industry Act 1972, for “1 of the Merchant Shipping Act 1965” substitute “ 19 of the Merchant Shipping Act 1995 ”.

*Education (Work Experience) Act 1973 (c. 23)*

F5148 .....

**Textual Amendments**

**F51** Sch. 13 para. 48 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39)

*Fishery Limits Act 1976 (c. 86)*

49 In section 8 of the Fishery Limits Act 1976—

(a) for the definition of “foreign fishing boat” substitute—

““foreign fishing boat” means a fishing boat which is not—

(a) registered in the United Kingdom, the Channel Islands or the Isle of Man; or

(b) wholly British-owned;” and

(b) in the appropriate place insert—

““wholly British-owned” means wholly owned by persons qualified to own British fishing boats for the purposes of Part II of the Merchant Shipping Act 1995;”.

*Aircraft and Shipbuilding Industry Act 1977 (c. 3)*

50 In paragraph 5(1)(a) of Schedule 2 to the Aircraft and Shipbuilding Industry Act 1977 for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (NI 28))*

51 In the Rates (Northern Ireland) Order 1977—

(a) in Schedule 4, in the definition of “vessel”, for “meaning assigned to it by section 742 of the Merchant Shipping Act 1894” substitute “ same meaning as “ship” in the Merchant Shipping Act 1995 ”; and

(b) in Schedule 11, in paragraph 6, for “section 731 of the Merchant Shipping Act 1894” substitute “ section 221(1) of the Merchant Shipping Act 1995 ”.

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*Judicature (Northern Ireland) Act 1978 (c. 23)*

52 In section 46 of the Judicature (Northern Ireland) Act 1978, after subsection (3) insert the following subsection—

“(3A) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of Northern Ireland as they apply in relation to offences under that Act or instruments under that Act.”

*Customs and Excise Management Act 1979 (c. 2)*

53 (1) The Customs and Excise Management Act 1979 shall be amended as follows.

(2) In section 1(1)—

- (a) in the definition of “British ship”, for the words from “Merchant Shipping Act 1894” to the end substitute “ Merchant Shipping Act 1995 ”;
- (b) in the definition of “tons register”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

(3) In section 81(7), for “not being a fishing vessel registered under the Merchant Shipping (Registration, etc.) Act 1993” substitute “ not being a fishing vessel registered under Part II of the Merchant Shipping Act 1995 ”.

*Hydrocarbon Oil Duties Act 1979 (c. 5)*

54 In section 19(1)(a) of the Hydrocarbon Oil Duties Act 1979, for “fishing boat register under the Merchant Shipping Act 1894” substitute “ register of British ships under the Merchant Shipping Act 1995 ”.

*Magistrates’ Courts Act 1980 (c. 43)*

55 After section 3 of the Magistrates’ Courts Act 1980 insert the following section—

**“3A Offences committed on ships and abroad.**

Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act.”

*Education (Scotland) Act 1980 (c. 44)*

56 In section 123(2)(b) of the Education (Scotland) Act 1980, for “(when it comes into force) section 51(1) of the Merchant Shipping Act 1970” substitute “ section 55(1) of the Merchant Shipping Act 1995 ”.

*Private Streets (Northern Ireland) Order 1980 (S.I. 1980/1086 (NI 12))*

57 In Article 2(2) of the Private Streets (Northern Ireland) Order 1980, in the definition of “industrial undertaking”, for “vessel as defined in section 742 of the Merchant Shipping Act 1894” substitute “ ship as defined in the Merchant Shipping Act 1995 ”.

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*Animal Health Act 1981 (c. 22)*

- 58 In the Animal Health Act 1981—
- (a) in section 49(4), for paragraph (a) substitute—
    - “(a) “master”, “owner” and “port” have the same meanings as in the Merchant Shipping Act 1995, and “vessel” has the same meaning as “ship” in the Merchant Shipping Act 1995; and”;
  - (b) in section 65—
    - (i) in subsection (3), for “692 of the Merchant Shipping Act 1894” substitute “ 284 of the Merchant Shipping Act 1995 ”; and
    - (ii) in subsection (4)(a), for “1894 Act” substitute “ 1995 Act ”.

*[<sup>F39</sup>Senior Courts Act 1981] (c. 54)*

- 59 (1) The [<sup>F39</sup>Senior Courts Act 1981] shall be amended as follows.
- (2) In section 20—
- (a) in subsection (3)—
    - (i) in paragraph (a), for the words after “under” substitute “ the Merchant Shipping Act 1995 ”;
    - (ii) in paragraph (c), for “Merchant Shipping Acts 1894 to 1979” substitute “ Merchant Shipping Act 1995 ”;
  - (b) in subsection (5)—
    - (i) in paragraph (a), for “the Merchant Shipping (Oil Pollution) Act 1971” substitute “ Chapter III of Part VI of the Merchant Shipping Act 1995 ”;
    - (ii) in paragraph (b), for the words following “falling on the” substitute “ International Oil Pollution Compensation Fund, or on the International Oil Compensation Fund 1984, under Chapter IV of Part VI of the Merchant Shipping Act 1995. ”;
  - (c) in subsection (6)(a), for “section 1 of the Merchant Shipping Salvage and Pollution Act 1994” substitute “ section 224 of the Merchant Shipping Act 1995 ”;
  - (d) in subsection (7), for “Merchant Shipping Acts 1894 to 1979” substitute “ Merchant Shipping Act 1995 ”.
- (3) In section 24—
- (a) in subsection (1)—
    - (i) in the definition of “collision regulations”, for the words after “means” substitute “ safety regulations under section 85 of the Merchant Shipping Act 1995 ”; and
    - (ii) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”;
  - (b) in subsection (2), in paragraph (b), for “552 of the Merchant Shipping Act 1894” substitute “ 226 of the Merchant Shipping Act 1995 ”.
- (4) After section 46 insert the following section—

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**“46A Offences committed on ships and abroad.**

- (1) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of England and Wales as they apply in relation to offences under that Act or instruments under that Act.”

*Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (NI 6))*

- 60 In the Judgments Enforcement (Northern Ireland) Order 1981—
- (a) in Article 3(5)(f), for “section 11(1) of the Merchant Shipping Act 1970” substitute “ section 34(1) of the Merchant Shipping Act 1995 ”;
  - (b) in Article 3(6), for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”;
  - (c) in Article 97(2), for “section 11(1) of the Merchant Shipping Act 1970” substitute “ section 34(1)(a) of the Merchant Shipping Act 1995 ”.

*Clean Air (Northern Ireland) Order 1981 (S.I. 1981/158 (NI 14))*

- 61 In Article 29(6) of the Clean Air (Northern Ireland) Order 1981, in the definition of “Government ship”, for “section 80 of the Merchant Shipping Act 1906” substitute “ the Merchant Shipping Act 1995 ”.

*Diseases of Animals (Northern Ireland) Order 1981 (S.I. 1981/1115 (NI 22))*

- 62 In Article 48(3) of the Diseases of Animals (Northern Ireland) Order 1981, for “section 692 of the Merchant Shipping Act 1894” substitute “ section 284 of the Merchant Shipping Act 1995 ”.

*Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (NI 26))*

- 63 After Article 17 of the Magistrates’ Courts Order 1981 insert the following Article—

**Offences committed on ships and abroad**

- “17A Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of Northern Ireland as they apply in relation to offences under that Act or instruments under that Act.”

*Civil Aviation Act 1982 (c. 16)*

- 64 In the Civil Aviation Act 1982—
- (a) in section 75(6), for “530 to 537 of the Merchant Shipping Act 1894 or any enactment amending those sections” substitute “ 245 to 247 and sections 252 to 254 of the Merchant Shipping Act 1995 ”;
  - (b) in section 86(2), for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”; and
  - (c) in section 97(6), in the definition of “conservancy authority” and “harbour authority”, for “meanings assigned to them by section 742 of the Merchant

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Shipping Act 1894” substitute “ the same meaning as in the Merchant Shipping Act 1995 ”.

*Oil and Gas (Enterprise) Act 1982 (c. 23)*

<sup>F52</sup>65 .....

**Textual Amendments**

**F52** Sch. 13 para. 65 repealed (15.2.1999) by 1998 c. 17, s. 51, **Sch. 5 Pt. I** (With Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**

*Civil Jurisdiction and Judgments Act 1982 (c. 27)*

- 66 In the Civil Jurisdiction and Judgments Act 1982—
- (a) in section 31(3), for “13(3) of the Merchant Shipping (Oil Pollution) Act 1971” substitute “ 166(4) of the Merchant Shipping Act 1995 ”; and
  - (b) in section 32(4)(a)—
    - (i) omit “section 13(3) of the Merchant Shipping (Oil Pollution) Act 1971,”;
    - (ii) for “section 6(4) of the Merchant Shipping Act 1974” substitute “ section 177(4) of the Merchant Shipping Act 1995 ”.

*Civic Government (Scotland) Act 1982 (c. 45)*

- 67 In section 38(4)(a) of the Civic Government (Scotland) Act 1982, for “Merchant Shipping Acts 1894 to 1981” substitute “ Merchant Shipping Act 1995 ”.

*British Fishing Boats Act 1983 (c. 8)*

<sup>F53</sup>68 .....

**Textual Amendments**

**F53** Sch. 13 para. 68 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(r), **Sch. 23 para. 32(3)**

*Public Health (Control of Disease) Act 1984 (c. 22)*

- 69 In the Public Health (Control of Disease) Act 1984—
- (a) in section 53(a) of the definition of “canal boat”, for “Merchant Shipping Acts 1894 to 1983” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in section 74, in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ “ship” in the Merchant Shipping Act 1995 ”.

*Inshore Fishing (Scotland) Act 1984 (c. 26)*

- 70 In section 9(1) of the Inshore Fishing (Scotland) Act 1984—
- (a) for the definition of “British fishing boat” substitute—

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““British fishing boat” means a fishing boat which either is registered under Part II of the Merchant Shipping Act 1995 or is wholly British-owned”; and

(b) in the appropriate place insert—

““wholly British-owned” means wholly owned by persons qualified to own British ships for the purposes of Part II of the Merchant Shipping Act 1995;”.

*Road Traffic Regulation Act 1984 (c. 27)*

71 In section 133(1) of the Road Traffic Regulation Act 1984, for “Part IV of the Merchant Shipping Act 1894” substitute “ Part IX of the Merchant Shipping Act 1995 ”.

*County Courts Act 1984 (c. 28)*

72 (1) The County Courts Act 1984 shall be amended as follows.

(2) In section 27—

(a) in subsection (3)(a), for “section 1 of the Merchant Shipping (Salvage and Pollution) Act 1994” substitute “ section 224 of the Merchant Shipping Act 1995 ”; and

(b) in subsection (5), for “Merchant Shipping Acts 1894 to 1983” substitute “ Merchant Shipping Act 1995 ”.

(3) In section 30(1)(c), for the words after “ships” substitute “ with safety regulations under section 85 of the Merchant Shipping Act 1995 ”.

(4) In section 31—

(a) in subsection (1), in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”;

(b) in subsection (2)(b), for “552 of the Merchant Shipping Act 1894” substitute “ 226 of the Merchant Shipping Act 1995 ”.

*Repatriation of Prisoners Act 1984 (c. 47)*

73 In section 5(6) of the Repatriation of Prisoners Act 1984, in the definition of “British ship”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Dangerous Vessels Act 1985 (c. 22)*

74 In section 2(b) of the Dangerous Vessels Act 1985, for “Merchant Shipping (Liability of Shipowners and Others) Act 1900” substitute “ section 191 of the Merchant Shipping Act 1995 (which limits the liability of harbour, conservancy, dock and canal authorities) ”.

*Food and Environment Protection Act 1985 (c. 48)*

75 In section 24(1) of the Food and Environment Protection Act 1985—

(a) in the definition of “British vessel”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”;



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- (b) in the definition of “vessel”, for “it by section 742 of the Merchant Shipping Act 1894”, substitute “ “ship” by the Merchant Shipping Act 1995 ”.

*Protection of Military Remains Act 1986 (c. 35)*

- 76 In section 9 of the Protection of Military Remains Act 1986, in the definition of “British-controlled ship”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Wages Act 1986 (c. 48)*

- 77 In section 30(3) of the Wages Act 1986, for “Merchant Shipping Act 1970” substitute “ Part III of the Merchant Shipping Act 1995 ”.

*Petroleum Act 1987 (c. 12)*

- 78 In section 23(8) of the Petroleum Act 1987, for “16(2) of the Merchant Shipping Act 1974” substitute “ 88(4) of the Merchant Shipping Act 1995 ”.

*Debtors (Scotland) Act 1987 (c. 18)*

- 79 In section 73(4) of the Debtors (Scotland) Act 1987—
- (a) in paragraph (a), for “section 742 of the Merchant Shipping Act 1894” substitute “ section 313 of the Merchant Shipping Act 1995 ”; and
  - (b) in paragraph (b), for the words from “has” to the end substitute “means any ship which is for the time being employed in sea fishing or in the sea fishing service, and includes any ship which is both—
    - (i) engaged in whale fisheries off the coast of Scotland; and
    - (ii) registered under the Merchant Shipping Act 1995”.

*Pilotage Act 1987 (c. 21)*

- 80 In the Pilotage Act 1987—
- (a) in section 22—
    - (i) in subsection (3), for “Schedule 4 to the Merchant Shipping Act 1979” substitute “ Schedule 7 to the Merchant Shipping Act 1995 ”;
    - (ii) in subsection (7), for “17 or is excluded under section 18 of the Merchant Shipping Act 1979” substitute “ 185 or is excluded under section 186 of the Merchant Shipping Act 1995 ”; and
  - (b) in section 31(1)—
    - (i) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”;
    - (ii) in the definition of “pilot”, for “has the same meaning as in the Merchant Shipping Act 1894” substitute “ means any person not belonging to a ship who has the conduct thereof ”.

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*Channel Tunnel Act 1987 (c. 53)*

- 81 In Part III of Schedule 7 to the Channel Tunnel Act 1987, in paragraph 1(2), in the definition of “the Trinity House”, for “742 of the Merchant Shipping Act 1894” substitute “ 223 of the Merchant Shipping Act 1995 ”.

*Norfolk and Suffolk Broads Act 1988 (c. 4)*

- 82 In section 25(1) of the Norfolk and Suffolk Broads Act 1988, in subsection (1), in the definition of “Trinity House”, for “742 of the Merchant Shipping Act 1894” substitute “ 223 of the Merchant Shipping Act 1995 ”.

*Local Government Finance Act 1988 (c. 41)*

- 83 In Schedule 5 to the Local Government Finance Act 1988, in paragraph 12(2), for “731 of the Merchant Shipping Act 1894” substitute “ 221(1) of the Merchant Shipping Act 1995 ”.

*Copyright, Designs and Patents Act 1988 (c. 48)*

- 84 In the Copyright, Designs and Patents Act 1988—
- (a) in section 162(2), in the definition of “British ship”, for “Merchant Shipping Acts (see section 2 of the Merchant Shipping Act 1988)” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in section 210(2), in the definition of “British ship”, for “Merchant Shipping Acts (see section 2 of the Merchant Shipping Act 1988)” substitute “ Merchant Shipping Act 1995 ”.

*Road Traffic Act 1988 (c. 52)*

- 85 In section 144(2)(c) of the Road Traffic Act 1988, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Wages (Northern Ireland) Order 1988 (S.I. 1988/796 (NI 7))*

- 86 In Article 26(3) of the Wages (Northern Ireland) Order 1988, for “the Merchant Shipping Act 1970” substitute “ Part III of the Merchant Shipping Act 1995 ”.

*Criminal Justice (International Co-operation) Act 1990 (c. 5)*

- 87 In section 5(7) of the Criminal Justice (International Co-operation) Act 1990, in the definition of “British ship”, for “Merchant Shipping Acts 1894 to 1988” substitute “ Merchant Shipping Act 1995 ”.

*Aviation and Maritime Security Act 1990 (c. 31)*

- 88 (1) The Aviation and Maritime Security Act 1990 shall be amended as follows.
- (2) In section 14(3), for “686 or 687 of the Merchant Shipping Act 1894” substitute “ 281 or 282 of the Merchant Shipping Act 1995 ”.
  - (3) In section 15(8), in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

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- (4) In section 35(4), for “692 of the Merchant Shipping Act 1894” substitute “ 284 of the Merchant Shipping Act 1995 ”.
- (5) In section 45—
- (a) in subsection (7)(a), for “section 59(1) of the Merchant Shipping Act 1894” substitute “ registration regulations ”; and
  - (b) in subsection (10), for the words following “provisions” substitute “ mean Part II of the Merchant Shipping Act 1995, or any Order in Council under section 1 of the Hovercraft Act 1968. ”.
- (6) In section 46(1)—
- (a) in the definition of “British ship”—
    - (i) in paragraph (a), for “Part I of the Merchant Shipping Act 1894, section 5 of the Merchant Shipping Act 1983, Part II of the Merchant Shipping Act 1988” substitute “ Part II of the Merchant Shipping Act 1995 ”;
    - (ii) in paragraph (b), for “Part I of the Merchant Shipping Act 1894” substitute “ Part II of the Merchant Shipping Act 1995 ”; and
  - (b) in the definition of “master”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Water Industry Act 1991 (c. 56)*

- 89 In the Water Industry Act 1991—
- (a) in section 121(6), for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”; and
  - (b) in section 219(1), in the definition of “harbour authority”, for “the Prevention of Oil Pollution Act 1971” substitute “ Chapter II of Part VI of the Merchant Shipping Act 1995 ”.

*Water Resources Act 1991 (c. 57)*

- 90 In section 221(1) of the Water Resources Act 1991—
- (a) in the definition of “harbour”, for “the Merchant Shipping Act 1894” substitute “ section 313 of the Merchant Shipping Act 1995 ”; and
  - (b) in the definition of “harbour authority”, for “the Merchant Shipping Act 1894” substitute “ section 313 of the Merchant Shipping Act 1995 ”, and for “within the meaning of the Prevention of Oil Pollution Act 1971” substitute “ as defined in section 151 for the purposes of Chapter II of Part VI of that Act ”.

*Land Drainage Act 1991 (c. 59)*

- 91 In the Land Drainage Act 1991—
- (a) in section 12(7), for “the Prevention of Oil Pollution Act 1971” substitute “ Chapter II of Part VI of the Merchant Shipping Act 1995 ”;
  - (b) in section 72(1)—
    - (i) in the definition of “conservancy authority”, for “the Prevention of Oil Pollution Act 1971” substitute “ Chapter II of Part VI of the Merchant Shipping Act 1995 ”; and

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- (ii) in the definitions of “harbour” and “harbour authority”, for “Merchant Shipping Act 1894” substitute “ Merchant Shipping Act 1995 ”.

*Dangerous Vessels (Northern Ireland) Order 1991 (S.I. 1991/1219 (NI 10))*

- 92 In Article 4(b) of the Dangerous Vessels (Northern Ireland) Order 1991, for “Merchant Shipping (Liability of Shipowners and Others) Act 1900” substitute “ section 191 of the Merchant Shipping Act 1995 (which limits the liability of harbour, conservancy, dock and canal authorities) ”.

*Judicial Pensions and Retirement Act 1993 (c. 8)*

- 93 In the Judicial Pensions and Retirement Act 1993—
- (a) in section 26(8)(c), for “52 of the Merchant Shipping Act 1970” substitute “ 61 of the Merchant Shipping Act 1995 ”;
  - (b) in Schedule 5, in the entry for a “Wreck commissioner”, for “82 of the Merchant Shipping Act 1970” substitute “ 297(1) of the Merchant Shipping Act 1995 ”; and
  - (c) in Schedule 7, in paragraph 5(5)(xxxiii), for “82 of the Merchant Shipping Act 1970” substitute “ 297(1) of the Merchant Shipping Act 1995 ”.

*Clean Air Act 1993 (c. 11)*

- 94 In the Clean Air Act 1993—
- (a) in section 46(6), in the definition of “Government ship”, for “section 80 of the Merchant Shipping Act 1906” substitute “ the Merchant Shipping Act 1995 ”; and
  - (b) in section 64(1), in the definition of “vessel”, for “in the Merchant Shipping Act 1894” substitute “ “ship” in the Merchant Shipping Act 1995 ”.

*Value Added Tax Act 1994 (c. 23)*

- 95 In section 33(3)(h), for “Part XI of the Merchant Shipping Act 1894” substitute “ Part VIII of the Merchant Shipping Act 1995 ”.

SCHEDULE 14

Section 314.

TRANSITORY, SAVING AND TRANSITIONAL PROVISIONS

*Extra-territorial provisions*

- 1 (1) Without prejudice to section 315(1), the repeals made by this Act shall not affect the law in force in any country or territory which is outside the United Kingdom.
- (2) In particular, the repeal of section 735 of the <sup>M23</sup>Merchant Shipping Act 1894 shall not affect the power of Her Majesty in Council to confirm any legislation made by the legislature of a British possession under that section as it extends to that possession.

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- (3) The provisions of this Act (including the repeal of any power by Order in Council to extend any enactment to a relevant British possession) or of any enactment which has been so extended, do not extend to any such possession except in so far as they are extended to that possession by an Order in Council under section 315(2) of this Act.

**Marginal Citations**

**M23** 1894 c. 60.

*References to registration in other legislation*

- 2 Any reference in an enactment in any other Act (not amended by Schedule 13), or in any instrument made under any other Act to the registration of a ship (or fishing vessel) under—
- (a) Part I of the Merchant Shipping Act 1894,
  - (b) section 5 of the <sup>M24</sup>Merchant Shipping Act 1983,
  - (c) section 13 of the <sup>M25</sup>Merchant Shipping Act 1988, or
  - (d) section 1 of the <sup>M26</sup>Merchant Shipping (Registration, etc.) Act 1993,
- shall be construed, unless the context otherwise requires, as, or as including, a reference to registration under Part II of this Act; and connected phrases shall be construed accordingly.

**Marginal Citations**

**M24** 1983 c. 13.

**M25** 1988 c. 12.

**M26** 1993 c. 22.

*Qualifications: certificates of A.B.*

- 3 (1) A seaman engaged in any United Kingdom ship shall not be rated as A.B. unless he is the holder of a certificate of competency granted in pursuance of regulations under this paragraph.
- (2) The Secretary of State may make regulations providing for the grant of certificates of competency as A.B. for the purposes of this paragraph.
- (3) The regulations shall direct that no certificate shall be granted to any person unless—
- (a) he has reached such minimum age as may be prescribed;
  - (b) he has performed such qualifying service at sea as may be prescribed; and
  - (c) he has passed such examination as may be prescribed.
- (4) The regulations may make such consequential provisions as appear to the Secretary of State to be necessary or expedient, including provision—
- (a) for the payment of prescribed fees in respect of any application for the grant or replacement of a certificate;
  - (b) for applying section 104 of the Merchant Shipping Act 1894 (offences) to certificates, subject to such adaptations and modifications as may be prescribed.

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- (5) Where provision is made by the law of any Commonwealth country for the grant of certificates of competency as A.B, and the Secretary of State is satisfied that the conditions under which such a certificate is granted require standards of competency not lower than those required for the grant of a certificate under the regulations, Her Majesty may by Order in Council direct that certificates granted in that country shall have the same effect for the purposes of this paragraph as if they had been granted under the regulations; and any such Order may apply to any such certificate any of the provisions of the regulations.
- (6) Any Order in Council under sub-paragraph (5) above shall be laid before Parliament after being made.
- (7) Any superintendent or other officer before whom a seaman is engaged in any United Kingdom ship shall refuse to enter the man as A.B. on the crew agreement unless the seaman produces a certificate or such other proof that he is the holder of such a certificate as may appear to the superintendent or other officer to be satisfactory.
- (8) In this paragraph—  
“certificate” means a certificate of competency under the regulations;  
“prescribed” means prescribed by the regulations; and  
“the regulations” means regulations under this paragraph.

*Manning: certificates existing in 1979*

- 4 (1) The power to make regulations under section 47 includes power to make regulations providing that pre-1979 certificates shall, except in such cases as are specified in the regulations, be deemed for the purposes of such of the provisions of Part III as are so specified to be issued in pursuance of that section and to confer on the persons to whom they were issued such qualifications for the purposes of that section as are so specified.
- (2) In this paragraph “pre-1979 certificate” means a certificate granted under section 93, 99 or 414 of the Merchant Shipping Act 1894, a certificate referred to in an Order in Council made under section 102 of that Act, a certificate granted under section 27(2) of the <sup>M27</sup>Merchant Shipping Act 1906 or by an institution approved in pursuance of that subsection and a certificate granted under section 5 of the <sup>M28</sup>Merchant Shipping Act 1948.

**Marginal Citations**

**M27** 1906 c. 48.

**M28** 1948 c. 44.

*Masters and seamen: postponed commencements*

- 5 (1) No provision to which this paragraph applies shall have effect until the Secretary of State by order appoints a day for that provision to come into force.
- (2) This paragraph applies to sections 60, 80(2) and (4), 111, 115, 116, 118, 119(2) and (3), 127, 314(1) so far as it relates to the repeal in the Aliens Restriction (Amendment) Act 1919 or in the Local Government etc. (Scotland) Act 1994.

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*Masters and seamen and documents: transitory provisions*

- 6 (1) A provision to which this paragraph applies shall cease to have effect on such day as the Secretary of State by order appoints.
- (2) This paragraph applies to sections 57, 287(1)(a) and 298, paragraph 26 of Schedule 3 and paragraph 3 of this Schedule.

*Safety provisions: saving of instruments, etc*

- 7 (1) Notwithstanding the repeal by the Merchant Shipping (Registration, etc.) Act 1993 of the following provisions, instruments in force before the repeal under the provisions specified in the left-hand column shall continue in force until superseded by safety regulations and the related provisions specified in the right-hand column shall continue in force for the purposes of those instruments:

<i>Empowering provision</i>	<i>Related provisions</i>
1894 Act: section 427	— Section 430.
1949 Act: section 3 section 21	— Sections 3(5) and (6) and 28. — Section 21(3).
1964 Act: section 2	— —
1967 Act (c.64): section 1	— Section 1(2) and (3).
1977 Act: section 2	— —

- (2) The Secretary of State may exempt any ships or classes of ships from any requirements of the rules for life-saving appliances or the radio rules, either absolutely or subject to such conditions as he thinks fit.

In this sub-paragraph—

“the rules for life-saving appliances” means rules under section 427 of the 1894 Act saved by sub-paragraph (1) above; and

“the radio rules” means rules under section 3 of the 1949 Act saved by that sub-paragraph.

*Oil pollution: saving for certain transitional provisions*

- 8 Notwithstanding the repeal of section 38 of the <sup>M29</sup>Merchant Shipping Act 1979 any transitional provisions included by virtue of subsection (6) of that section in a commencement order under section 52(2) of that Act shall continue to have effect.

**Marginal Citations**

**M29** 1979 c. 39.

*Lighthouses: dependencies*

- 9 (1) Section 193(5) shall cease to have effect on such day or days as the Secretary of State by order appoints.

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- (2) Until that day, the powers of the Trinity House under Part VIII with respect to lighthouses, buoys and beacons in the islands of Guernsey or Jersey other than their powers under sections 204 and 220 shall not be exercised without the consent of Her Majesty in Council.
- (3) Until that day, no dues for any lighthouse, buoy or beacon erected or placed in or near the islands of Guernsey, Jersey, Sark or Alderney shall be levied in the islands of Guernsey or Jersey without the consent of the States of those Islands respectively.
- (4) Any Order in Council under sub-paragraph (2) above shall be laid before Parliament.
- (5) There shall continue to be paid out of the General Lighthouse Fund under section 211 any expenditure incurred by the Government of the United Kingdom in pursuance of the arrangement made with the Government of Sri Lanka on 27th February 1976 for the transfer of certain lighthouses off the coast of that country.

*Lighthouses: Scotland*

- 10 Prior to the commencement of paragraph 7 of Schedule 13 to the <sup>M30</sup>Local Government etc. (Scotland) Act 1994, Schedule 8 shall have effect as if—
- (a) in paragraph 1(2), in head (a), for the words from “conveners” to “Bute” there were substituted “ chairmen of the Inverness and Argyll district councils ”;
  - (b) in paragraph 2(1), for the words “convener of any” there were substituted “ chairmen of any district ”; and
  - (c) paragraph 5 were omitted.

**Marginal Citations**

**M30** 1994 c. 39.

*Wreck and salvage: Cinque ports*

- 11 Nothing in Part IX shall prejudice or affect any jurisdiction or powers of the Lord Warden or any officers of the Cinque ports or of any court of those ports or of any court having concurrent jurisdiction within the boundaries of those ports; and disputes as to salvage arising without those boundaries shall, subject to the Salvage Convention as set out in Schedule 11, be determined in the manner in which they have been hitherto determined.

*Wreck: Liability for damage in case of plundered vessel in Scotland*

- 12 Prior to the commencement of paragraph 1 of Schedule 13 to the Local Government etc. (Scotland) Act 1994, section 235(4) shall have effect as if for the words “constituted under section 2 of the Local Government etc. (Scotland) Act 1994” there were substituted “ of the regional or islands area ”.

*Behring Sea Award*

- 13 Nothing in this Act shall affect the <sup>M31</sup>Behring Sea Award Act 1894.



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### Marginal Citations

M31 1894 c. 2.

## TABLE OF DERIVATIONS

### Notes

- 1 This Table shows the derivations of the provisions of the Bill.
- 2 The following abbreviations are used in the Table:—

### ACTS OF PARLIAMENT

1894	= Merchant Shipping Act 1894 (c.60)
1900	= Merchant Shipping (Liability of Shipowners and others) Act 1900 (c.32)
1906	= Merchant Shipping Act 1906 (c.48)
1911 MC	= Maritime Conventions Act 1911 (c.57)
1970 FV	= Fishing Vessels (Safety Provisions) Act 1970 (c.27)
1970	= Merchant Shipping Act 1970 (c.36)
1971	= Merchant Shipping (Oil Pollution) Act 1971 (c.59)
1971 POP	= Prevention of Oil Pollution Act 1971 (c.60)
1974	= Merchant Shipping Act 1974 (c.43)
1979	= Merchant Shipping Act 1979 (c.39)
1981	= Merchant Shipping Act 1981 (c.10)
1982 CJ	= Criminal Justice Act 1982 (c. 48)
1984	= Merchant Shipping Act 1984 (c.5)
1988	= Merchant Shipping Act 1988 (c.12)
1993	= Merchant Shipping (Registration etc) Act 1993 (c.22)
1994	= Merchant Shipping (Salvage and Pollution) Act 1994 (c.28)

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## SUBORDINATE LEGISLATION

1995 SC	= Merchant Shipping (Survey and Certification) Regulations 1995 (S.I. 1995/1210)
3	By the Transfer of Functions (Trade and Industry) Order 1983, S.I. 1983/1127, the functions of the Secretary of State for Trade (who succeeded to the functions of the Board of Trade under previous Orders) relating to shipping were transferred to the Secretary of State for Transport. This effect on the numerous references to the Board of Trade is not noted in the Table.
4	By Schedule 1, paragraph 1 to the Customs and Excise Management Act 1979 (c.2) references to the Commissioners of Customs or to officers of customs in pre—1.4.1909 (when the respective Commissioners and their officers were assimilated) enactments became references to the Commissioners of Customs and Excise and officers of customs and excise respectively. This effect is not noted in the Table.
5	Schedule 4, paragraph 2 of the 1993 Act effected general changes in the terminology used in the Merchant Shipping Acts. These included— <ul style="list-style-type: none"> <li>(a) assimilating “ship” and “vessel” so that generally only “ship” is used;</li> <li>(b) enabling use to be made in the many contexts where the provision has one or other of these meanings of the expressions “United Kingdom waters” and “national waters”; and</li> <li>(c) substituting its “equipment” for the tackle, equipments, furniture or apparel of a ship.</li> </ul> <p>These changes in terminology are not noted against the numerous provisions affected.</p>
6	The general conversion of then-existing fines in terms of amounts of money into levels on the standard scale effected by section 46 of the Criminal Justice Act 1982 (c.48) is not noted in the Table against the numerous provisions affected by the conversion; nor is the general increase in summary penalties effected in pre-1949 enactments by section 31(6) of the Criminal Law Act 1977 (c.45). But specific alterations are noted.
7	As regards offences, paragraph 74 of Schedule 4 to the 1993 Act made three changes. These were— <ul style="list-style-type: none"> <li>(a) the substitution of “intentionally” for “wilfully”;</li> <li>(b) the substitution of “permitting” for “suffering” or “allowing” a thing to be done; and</li> <li>(c) the substitution of “excuse” for “cause” in the expression “reasonable cause”.</li> </ul> <p>These are not noted against the provisions affected.</p>
8	Section 1(1)(c) of the Merchant Shipping (Mercantile Marine Fund) Act 1898 (c.44) translated all references to that Fund into references to the General Lighthouse Fund constituted by that section. These are not noted in the Table against the numerous provisions affected.

**Provision**

**Derivation**

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1(1), (2)	1993 Sch.3 para.1(1),(2); Sch.4 para.1(1).
(3)	Drafting.
2(1) to (3)	1993 Sch.3 para.2.
(4)	1894 s.738(2)
3	1993 Sch.3 para.5.
4	1993 Sch.3 para.3.
5	1993 Sch.3 para.4.
6	1993 Sch.3 para.6.
7(1),(2)	1894 s.76(1); 1988 Sch.1. para.47; 1993 Sch.4 para.2(4)
(3),(4)	1894 s.76(2); 1988 Sch.1 para.47.
(5)	1894 s.76(1).
8	1993 s.1(1) to (5).
9	1993 s.2.
10	1993 s.3(1) to (7), (9).
11	1894 s.82; 1993 Sch.2 para.2(a).
12(1),(2)	1894 s.84(1); 1988 Sch.1 para.48.
(3)	Merchant Shipping Act 1965 (c.47) Schedule 1.
(4),(5)	1894 s.84(2),(3).
13	1993 Sch.3 para.7.
14	1993 s.4.
15	1993 s.5.
16	1993 s.6.
17	1993 s.7.
18	1988 s.11; 1993 Sch.2 para.15(2).
19	1965 s.1 (1) to (4), (6),(6A); 1970 s.91; 1979 Sch.6 Pt.VI para.6.
20	1894 s.76.
21	1988 s.52; 1993 Sch.2 para.15(4).
22	1894 s.66; 1993 Sch.4 para.71.
23	1993 s.9(2), (3).
24(1),(2)	1970 s.96(1); 1988 Sch.5.
(3)	1970 s.95(1).
25	1970 s.1; 1979 Sch.6 Pt.III.

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26	1970 s.2; 1979 Sch.6 Pt.VI para.8.
27	1970 s.3; 1979 Sch.6 Pt.VI para.8.
28	1970 s.4.
29	1970 s.5.
30(1)	1970 s.7(1); 1988 s.46(2).
(2)	1970 s.7(2); 1988 s.46(3).
(3)	1970 s.7(3); 1988 s.46(4).
(4) to (6)	1970 s.7(3A) to (3C); 1988 s.46(5).
(7)	1970 s.7(4); 1988 s.46(6).
(8),(9)	1970 s.7(5),(6); 1988 s.46(7).
(10)	1970 s.7(7); 1988 s.46(8).
31 (1) to (3)	1970 s.8(1) to (3); 1988 s.46(9).
(4)	1970 s.8(3A); 1988 s.46(9)
(5),(6)	1970 s.8(4),(5); 1979 Sch.6 Pt.I.
32	1970 s.9.
33	1970 s.10.
34(1)	1970 s.11(1); 1993 Sch.4 para.9.
(2),(3)	1970 s.11(2),(3).
(4)	1979 s.39(3).
(5)	Child Support Act 1991 (Consequential Amendments) Order 1993 (S.I. 1993/785) art.5; Child Support (Northern Ireland) Order 1991 (Consequential Amendments) Order (Northern Ireland) 1993 (S.R. (NI) 1993 No.157) art.5.
(6)	1979 s.39(2).
35	1970 s.12.
36	1970 s.13.
37	1970 s.14.
38(1) to (3)	1970 s.15(1) to (3).
(4)	1979 s.37(1).
39	1970 s.16.
40(1) to (9)	1970 s.17(1) to (9).
(10),(11)	1970 s.17(10),(11); Transfer of Functions (Local Government etc.) (Northern Ireland) Order 1973 (1973 SR&O (NI) 1973/256) Sch.1; Sch. 2

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	Social Security Act 1989 (c.24) s.5(5); 1993 Sch.4 para.10; S.I.
41	1970 s.18.
42(1),(2)	1894 s.458(1); 1993 Sch.4 paras.6(1), 7.
(3)	1894 s.458(2)(a).
43	1970 s.20; 1979 Sch.6 Pt.IV.
44(1)	1970 s.22(1); S.I. 1989/102 reg.1(3)(b).
(2),(3)	1970 s.22(2),(3).
(4)	1970 s.22(4); 1979 Sch.6 Pts.II, III.
45	1970 ss.26, 97(5).
46	1970 s.49.
47	1970 s.43; 1979 Sch.6 Pt.IV.
48	1970 s.44.
49(1)	1970 s.45; 1979 Sch.6 Pt.IV; 1982 CJ s.49(1).
(2)	1970 s.96(2); 1988 Sch.5.
50	1970 s.47; 1979 Sch.6 Pt.II.
51	1970 s.48; 1979 Sch.6 Pt.IV.
52	1970 s.46; 1979 s.43(2) Sch.6 Pt.V; 1982 CJ s.49(1).
53	1970 s.25.
54	1970 s.50; 1979 Sch.6 Pt.IV.
55	1970 s.51; 1979 Sch.6 Pt.II.
56	1988 s.26.
57	Mercantile Marine Uniform Act 1919 (c.62) s.1.
58(1) to (5)	1970 s.27(1) to (5); 1988 s.32.
(6)	1970 ss.27(6), 33.
(7),(8)	1970 s.27(7),(8); 1988 s.32.
59	1970 s.30(c); 1974 s.19(4); 1979 Sch.6 Pt.VII para.21; 1982 CJ s.49(1).
60(1)	1979 s.23(1).
(2)	1979 s.23(1)(a).
(3)	1979 s.23(1)(b).
(4)	1979 s.23(1)(c).
(5)	1979 s.23(1)(d).
(6)	1979 s.23(1)(e).

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(7)	1979 s.23(1)(f).
(8)	1979 s.23(1) full out.
(9),(10)	1979 s.23(3).
61	1970 s.52.
62	1970 s.53.
63	1970 s.54.
64	1970 s.57.
65	1970 s.58; 1988 Sch.6.
66	1970 s.59; 1979 Sch.6 Pt.II.
67	1970 s.60.
68	1988 s.44.
69	1988 s.45.
70	1970 s.39.
71	1970 s.40.
72	1970 s.41.
73(1) to (3)	1970 s.62(1) to (3).
(4)	1970 s.62(4); British Nationality Act 1981 (c.61) s.51(3).
(5)	1970 s.62(5).
(6)	1970 s.62(6); 1979 Sch.6, Pt.VI para.8.
(7)	1970 s.62(7).
(8)	1970 s.67.
74	1970 s.63.
75	1970 s.64.
76	1988 s.27.
77	1970 s.68; 1979 Sch.6 Pt.III, Pt.IV para.4; 1982 CJ s.46(2).
78	1970 s.69; 1979 Sch.6 Pt.VI para.4; 1982 CJ s.46(2).
79(1)	1970 s.70(1).
(2)	1970 s.70(2); 1979 Sch.6 Pt.VI para.4; 1982 s.46(2).
(3)	1970 s.70(3); British Nationality Act 1981 (c.61) Sch.7.
(4)	1970 s.70(4); 1979 Sch.6 Pt.III.
80(1)	1970 s.71(1).
(2)	1979 s.23(5).

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(3)	1970 s.71(2); 1979 Sch.6 Pt.VI para.4; 1982 CJ s.46(2).
(4)	1979 s.23(6); 1982 CJ s.49(1).
81	1970 s.74; 1979 Sch.6 Pt.II.
82	1988 ss.28, 53(2)(a).
83	1988 s.29.
84	1970 s.97(1) to (4), (6).
85(1)	1979 s.21(1); Safety at Sea Act 1986 (c.23) s.11(1), (4); 1993 Sch.4 para.6(4).
(2)	1979 s.21(2); British Nationality Act 1981 (c.61) s.51(3).
(3)	1979 s.21(3); Safety at Sea Act 1986 (c.23) s.11(2), (4).
(4)	1979 s.21(3A); 1993 Sch.4 para.13(3).
(5),(6)	1979 s.21(4),(5).
(7)	1979 s.21(6); 1982 CJ s.49(3).
86(1)	1979 s.22(1); 1993 Sch.4 para.13.
(2)	1979 s.22(3).
(3)	1979 s.22(4)
(4)	1979 s.22(2).
(5),(6)	1979 s.49(4A),(4B); Safety at Sea Act 1986 (c.23) s.11(3); 1988 Sch.5.
87(1),(2)	1894 s.449(1); 1993 Sch.4 para.11(2) (a).
(3),(4)	1894 s.449(2); 1993 Sch.4 para.11(2) (b).
(5)	1894 s.449(3); 1993 Sch.4 para.11(2) (c).
88(1)	1974 s.16(1); 1993 Sch.4. para.6(3)
(2)	1974 s.17(1); 1993 Sch.4 para.6(3).
(3)	1974 s.17(3).
(4)	1974 s.16(2).
89	Drafting.
90	1970 s.86.
91(1)	Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c.9) s.24(1).

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(2)	1932 (c.9) s.24(1); Merchant Shipping Act 1964 (c.47) s.16.
(3)	1932 (c.9) s.24(2).
(4)	1932 (c.9) s.24(3); 1979 Sch.6 Pt.III.
(5),(6)	1932 (c.9) s.24(4); Post Office Act 1969 (c.48) s.3(1)(i).
(7)	1932 (c.9) s.24(4),(5).
92(1)	1894 s.422(1).
(2)	1993 Sch.4 para.6(2).
(3)	1911 MC s.4(2).
(4)	1894 s.422(3); 1979 Sch.6 Pt.VII para.6.
93(1),(2)	Merchant Shipping (Safety Convention) Act 1949 (c.43) s.22(1),(2).
(3)	1993 Sch.4 para.6(2).
(4),(5)	1949 (c.43) s.22(3),(4).
(6)	1949 (c.43) ss.22(5), 37(3) incorporating 1894 s.680(1)(a).
(7)	1949 (c.43) s.22(8).
94(1),(2)	1988 ss.30(1),(3), 30A(5).
(3)	1988 s.30(9).
95	1988 s.30A; 1993 Sch.4 para.12(2).
96(1)	1984 s.4(1); 1993 Sch.4 para.12(3),(4).
(2)	1984 s.4(2); 1993 Sch.4 para.12(4)(c).
(3)	1993 Sch.4 para.12(4)(d).
(4)	1984 s.4(3).
(5)	1993 Sch.4 para.12(4)(e).
(6),(7)	1984 s.4(5); Courts and Legal Services Act 1990 (c.41) Sch.10 para.55.
(8),(9)	1984 s.4(6),(7)
(10)	1993 Sch.4 para.12(4)(a).
97(1)	1984 s.5(1); 1993 Sch.4 para.12(3),(4).
(2)	1984 s.5(4).
(3)	1984 s.5(5).
(4)	1993 Sch.4 para.12(4)(a).
98	1988 s.30(1),(2),(4) to (10).



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99	Merchant Shipping Act 1921 (c.28) ss.2, 3.
100	1988 s.31.
101(1)	1894 s.287(1); 1995 SC reg.1(5).
(2)	1894 s.287(2); 1993 Sch.4 para.14.
(3)	1894 s.287(3); 1993 Sch.4 para.14.
(4)	1894 s.287(1),(2); 1979 Sch.6 Pt.I.
(5)	1894 s.287(4).
(6)	1995 SC reg.1(5).
102	1894 s.288; 1993 Sch.4 para.2(1)(g); 1995 SC reg.1(6).
103	1970 s.77; 1979 Sch.6 Pt VI para.9.
104	1970 s.78; Aviation and Maritime Security Act 1990 (c.31) Sch.3.
105	1970 s.79.
106(1)	1970 s.32.
(2)	1970 s.96(2); 1988 Sch.5.
(3)	1970 s.95(1)(a).
107	1906 s.76; 1979 Sch.6 Pt.VI para.13; 1993 Sch.4 para.15.
108(1)	1970 s.72(1).
(2),(4)	1970 s.72(1)(a).
(3),(4)	1970 s.72(1)(b); British Nationality Act 1981 (c.61) s.51(3).
(5),(6)	1979 s.30(1).
(7)	1970 s.72(2); 1979 s.30(1).
(8)	1970 s.72(3).
(9)	1970 s.72(4); 1979 Sch.6 Pt.VI para.4; 1982 CJ s.46(3).
(10)	1970 s.72(5).
(11)	1970 s.97(5).
109	1970 s.95(1), Sch.2 Pt.I para.1; 1982 CJ s.38(8).
110	1970 ss.7, 95(1)(b), Sch.2 Pt.II.
111	1979 s.24.
112	1970 ss.8, 95(1)(b), Sch.2 Pt.II.
113	1970 s.95(4); Attachment of Earnings Act 1971 (c.32) s.27(3); Judgments

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	Enforcement (Northern Ireland) Order (S.I. 1981/226 Sch.2 para.17).
114	1970 s.95(2).
115	1970 s.95(1)(a), Sch.2 para.4; 1979 Sch.6 Pt.III.
116	1970 s.95(1)(a), Sch.2 para.3; 1979 Sch.6 Pt.II; 1982 CJ s.38(8).
117	1970 ss.28, 33; 1979 s.45(2) Sch.6 Pt.VII para.20; Safety at Sea Act 1986 (c.23) s.10.
118	1979 s.25.
119(1)	1970 s.95(1)(a); 1979 s.45(3).
(2),(3)	1979 s.23(2).
120	1970 s.95(5).
121	1970 FV s.1; 1979 Sch.6 Pt.V.
122(1)	1970 FV s.2(1); 1986 s.5(1).
(2)	Drafting.
123	1970 FV s.3(1) to (3), 9(1).
124(1) to (4)	1970 FV s.3(4); 1894 ss.280, 281(1), (2); 1993 Sch.4. para.16.
(5),(6)	1970 FV s.3(4); 1894 ss.282,680(1).
(7)	1970 FV s.3(5).
125	1970 FV s.4(1) to (3); 1979 s.43(2), Sch.6 Pt.V.
126	1970 FV s.5; 1982 CJ s.38(8).
127	Safety at Sea Act 1986 (c.23) ss.7, 9(1).
128(1)	1979 s.20(1); 1994 s.2(1).
(2)	1979 s.20(2).
(3)	1979 s.20(3); Environmental Protection Act 1990 (c.43) s.148(2); 1988 Sch.6; 1994 s.3(2).
(4)	1979 s.20(4); 1994 s.3(3).
(5),(6)	1979 s.20(4A),(4B); 1994 s.3(4).
(7)	1979 s.20(5).
(8),(9)	1979 s.20(6); 1994 s.2(2).
129	1979 s.20A; 1994 s.4.
130(1) to (3)	1988 s.35.
(4)	1988 s.53(2).

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131(1),(2)	1971 POP s.2(2A), (2B); Prevention of Oil Pollution Act 1986 (c.6) s.1(1).
(3)	1971 POP s.2(4).
(4)	1971 POP s.29(1).
(5),(6)	1971 POP s.2(3).
132	1971 POP s.5.
133	1971 POP s.6(1) except (b) and (c).
134	1971 POP s.7.
135	1971 POP s.10; 1979 Sch.6 Pt.II.
136	1971 POP ss.11 except (c), 29(1); 1979 Sch.6 Pt.IV.
137	1971 POP s.12; 1994 s.8(6).
138	1971 POP s.13.
139	1971 POP s.14.
140(1)	1971 POP s.15(1); Companies Consolidation (Consequential Provisions) Act (c.9) 1985 Sch.2.
(2)	1971 POP s.15(2).
(3)	1971 POP s.15(3); S.I. 1986/1032 (NI6) Sch.1 Pt.II.
141	1971 POP s.16.
142(1) to (4)	1971 POP s.17(1) to (4).
(5)	1971 POP s.27(4).
(6) to (8)	1971 POP s.17(5); 1979 Sch.6 Pt.VI para.17.
(9)	1971 POP s.17(6).
(10)	1971 POP s.29(1).
143(1)	1971 POP s.19(1).
(2),(3)	1971 POP ss.19(1), 30(4).
(4)	1971 POP s.19(2).
(5)	1971 POP s.19(3).
(6),(7)	1971 POP s.19(4A); Environmental Protection Act 1990 (c.43) Sch.14 para.2.
144(1) to (7),(10)	1971 POP s.19A; Environmental Protection Act 1990 s.148(1), (3), Sch.14 paras. 1, 3.

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145	1971 POP s.19A(8), (9); Environmental Protection Act 1990 s.148(1), (3), Sch.14 paras.1, 3.
146	1971 POP s.20; Debtors (Scotland) Act 1987 (c.18) Sch.6 para.14; Environmental Protection Act 1990 (c.43) Sch.14 para 4; 1993 Sch.4 para.66.
147	1971 POP s.21.
148	1971 POP s.23; Petroleum and Submarine Pipelines Act 1975 (c.74) s.45(2); 1979 s.37(8).
149	1971 POP s.24.
150	1971 POP s.26.
151(1),(2)	1971 POP ss.8(2), 29(1).
(3) to (5)	1971 POP s.29(2) to (4).
(6)	1971 POP s.29(5); 1993 Sch.4 para.17(c).
(7)	1971 POP s.32.
152	1971 s.19; 1988 Sch.4 Pt.I para.13; 1994 s.5(1),(4).
153	1971 s.1; 1988 Sch.4 Pt.1 para.1; 1994 Sch.3 Pt.II para.1.
154	1971 s.1A; 1994 Sch.3 Pt.II para.2.
155	1971 s.2; 1988 Sch.4 Pt.I para.2; 1994 Sch.3 Pt.II para.3.
156	1971 s.3; 1988 Sch.4 Pt.I para.3; 1994 Sch.3 Pt.II para.4.
157	1971 s.4; 1988 Sch.4 Pt.I para.4.
158(1),(2)	1971 s.5(1),(2).
(3)	1971 s.5(2A); 1979 s.38(2).
(4)	1971 s.5(3).
(5)	1971 s.5(4); 1979 Sch.5 para.6(1).
(6),(7)	1971 s.5(5),(6).
(8)	1988 Sch.4 Pt.I para.5.
159	1971 s.6.
160	1971 s.7; 1988 Sch.4 Pt.I para.6.
161	1971 s.8.
162	1971 s.9; 1994 Sch.3 Pt.I para.5.

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163(1)	1971 s.10(1).
(2)	1971 s.10(2).
(3)	1971 s.10(3); 1988 Sch.4 Pt.I para.8(b).
(4)	1971 s.10(5).
(5)	1971 s.10(6); 1988 Sch.5.
(6)	1971 s.10(7); 1979 Sch.6 Pt.III.
(7)	1971 s.10(8).
164	1971 s.11.
165	1971 s.12; 1988 Sch.4 Pt.I para.9.
166(1)	1971 s.13(1); [F <sup>39</sup> Senior Courts Act 1981] (c.54) Sch.5.
(2),(3)	1971 s.13(2),(2A); 1988 Sch.4 Pt.I para.10.
(4)	1971 s.13(3).
167	1971 s.14; 1988 Sch.4 Pt.I para.11.
168	1971 s.15(2); 1979 Sch.5 para.6(2); 1994 Sch.3 Pt.II para.7.
169	1971 s.16.
170	1971 s.20; 1988 Sch.4 Pt.II para.8.
171(1)	1994 ss.5(1), 10(3).
(2), (3)	1994 s.5(3), (4).
172	1974 s.1(1),(2); 1988 Sch.4 Pt.II para.15; 1994 s.5(1),(4).
173(1)	1974 s.2(1),(10).
(2) to (6)	1974 s.2(2) to (6).
(7)	1974 s.2(7); 1988 Sch.4 Pt.II para.16.
(8) to (10)	1974 s.2(8),(9); 1982 CJ s.38(9); Companies Consolidation (Consequential Provisions) Act 1985 (c.9) Sch.2.
174(1) to (4)	1974 s.3(1) to (4).
(5)	1974 s.3(5); 1979 Sch.6 Pt.IV.
(6)	1974 s.3(6); 1979 Sch.6 Pt.VI para.18.
175(1) to (7)	1974 s.4(1) to (7); 1988 Sch.4 Pt.II para.17(2).
(8) to (10)	1974 s.4(8),(9),(9A); 1988 Sch.4 Pt.II para.17(3).
176	1974 s.4A; 1988 Sch.4 Pt.II para.17(5).

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177	1974 s.6; [ <sup>F39</sup> Senior Courts Act 1981] (c.54) Sch.5.
178	1974 s.7(1),(2); 1988 Sch.4 Pt.II para.20(a).
179(1)	1974 s.8(1); 1994 s.7(1).
(2)	1974 s.8(4).
180	1974 s.8A; 1988 Sch.4 Pt.II para.22.
181(1),(2)	1974 s.1(3) to (6); 1988 Sch.4 Pt.II para.15.
(3)	1971 s.20(3); 1988 Sch.4 Pt.I para.14.
182(1)	1994 ss.5(1), 10(3).
(2), (3)	1994 s.5(3), (4).
183	1979 ss.14(1),(2),(4) to (7), 15(2).
184	1979 s.16(2), (3), (5), (6).
185(1),(2)	1979 s.17.
(3)	1979 Sch.5 para.3.
(4)	1979 s.35(2).
186	1979 s.18; 1993 Sch.4 para.6(1).
187(1)	1911 MC s.1(1).
(2)	1911 MC s.1(1) proviso (a).
(3)	1911 MC s.9(4).
(4)	1911 MC s.1(1) proviso (b).
(5)	1911 MC s.1(1) proviso (c).
(6),(7)	1911 MC s.1(2).
188(1)	1911 MC s.2.
(2)	1911 MC s.9(4).
(3)	1911 MC s.2 proviso.
(4)	1911 MC s.1(2).
189(1)	1911 MC s.3(1).
(2)	1911 MC s.9(4).
(3)	1911 MC s.3(1) proviso.
(4)	1911 MC s.3(2).
190(1) to (4)	1911 MC s.8.
(5),(6)	1911 MC s.8 proviso.
191(1),(2)	Merchant Shipping (Liability of Shipowners and others) 1900 (c.32) s.2(1).

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(3)	Ibid.s.3.
(4)	1979 Sch.5 para.1(1).
(5)	1979 Sch.5 para.1(2).
(6)	1979 Sch.5 para.1(3).
(7)	1900 (c.32) s.2(1).
(8)	1900 (c.32) s.2(6).
(9)	Ibid. s.2(4),(5).
192(1)	Crown Proceedings Act 1947 (c.44) ss.5,6,7,30(1); 1979 Sch.5 para.3.
(2)	Ibid. s.38(2).
(3)	Crown Proceedings Order 1981 (SI 1981/233) art.30(1).
193(1)	1894 s.634(1).
(2)	1894 s.634(1); Ports Act 1991 (c.52) s.31(3).
(3)	1894 s.668.
(4)	1894 s.634(1); Ports Act 1991 (c.52) s.34(3).
(5)	1894 s.634(1)(a),(b).
194	1894 s.635.
195(1)	1894 s.634(1).
(2)	1894 s.634(2).
196	1894 s.634A; 1988 s.41.
197(1)	1894 s.638.
(2),(3)	Ports Act 1991 (c.52) s.31(4),(5).
(4)	1894 s.642; 1993 Sch.4 para.39.
(5)	1894 s.639(1).
(6)	1894 s.639(1A); 1993 Sch.4 para.38.
(7)	1894 s.639(2).
198	1894 s.652.
199(1)	1894 s.653(1).
(2)	1894 s.653(2).
(3)	1894 s.653(3); Ports Act 1991 (c.52) s.31(6).
(4)	1894 s.653(5).
200	1894 s.636.
201	Ports Act 1991 (c.52) s.31(1), (2), (7).

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202	Ports Act 1991 (c.52) s.32.
203	Ports Act 1991 (c.52) ss.33(1), 34(2).
204(1)	1894 s.654(1).
(2)	Ports Act 1991 (c.52) ss.33(3), 34(2).
205(1),(2)	1894 s.643; 1993 Sch.4 para.40.
(3)	Merchant Shipping (Mercantile Marine Fund) Act 1898 (c.44) s.5(1).
(4)	1894 s.643.
(5)	Merchant Shipping (Mercantile Marine Fund) Act 1898 (c.44) s.5(2); 1979 s.36(2).
(6)	1894 s.647; 1993 Sch.4 para.42.
(7) to (9)	1894 s.648(2),(3); 1993 Sch.4 para.43.
206	1894 s.643A; 1993 Sch.4 para 41.
207(1)	1894 s.649(1).
(2)	1894 ss.649(1), 681(2).
(3)	1894 s.649(1A); 1993 Sch.4 para.44.
(4)	1894 s.649(2).
208	1894 s.650; 1993 Sch.4 para.45.
209	1894 s.651; 1993 Sch.4 para.46.
210(1)	Harbours Act 1964 (c.40) s.29(2),(3).
(2)	1964 (c.40) s.29(2).
(3),(4)	1894 s.655(2).
(5)	1964 (c.40) s.30(2); 1993 Sch.4 para.55.
(6)	1964 (c.40) s.30(3).
(7)	1964 (c.40) s.30(4).
(8)	1964 (c.40) s.35.
(9),(10)	1894 s.656.
(11)	1993 Sch.4 para.47.
211(1)	Merchant Shipping (Mercantile Marine Fund) Act 1894 (c.44) s.1(1); 1988 Sch.5.
(2)(a)	1894 s.658; 1988 Sch.5.
(b)	1898 <i>ibid.</i> s.2A(1); 1988 s.43.
(c)	1898 <i>ibid.</i> s.2B; 1988 s.43.
(d)	1898 <i>ibid.</i> s.2(3),(7), Sch.3.



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(e)	Drafting.
(3)(a)	1898 <i>ibid.</i> s.1(2); 1988 Sch.5.
(b)	1898 <i>ibid.</i> s.2A(2); 1988 s.43.
(c)	Drafting.
(4),(5)	1894 s.679; 1993 Sch.4 para.53.
212	1894 s.659; Merchant Shipping (Amendment) Act 1920 (c.2) s.1; 1988 Sch.5.
213	1894 s.660.
214	1898 s.1A(1); Superannuation Act 1972 (c.11) s.17(1).
215	1894 s.662; 1988 s.42.
216	1894 s.662A; 1988 s.42.
217	1894 s.662B; 1988 s.42.
218	1894 s.664; 1993, Sch.4 para.49.
219(1), (2)	1894 s.666(1), (1A); 1993, Sch.4 para.50.
(3)	1894 s.666(2); 1979 s.43(1), Sch.6 Pt.III.
220(1),(2)	1894 s.667(1).
(3)	1894 s.667(2).
(4)	1894 s.667(3); 1979 Sch.6 Pt.VIII para.9.
(5),(6),(7)	1894 ss.667(4), 681(2); 1993 Sch.4 para.51.
(8)	1894 s.667(4A); 1993 Sch.4 para.51.
221(1),(2)	1894 s.731; 1988 Sch.5.
(3)	Ports Act 1991 (c.52) s.36(2)(c).
(4),(5)	1894 s.721(b),(c).
222	1894 s.732.
223(1)	1894 s.742.
(2)	1894 s.638; 1993 Sch.4 para.37.
(3),(4)	1979 ss.34(3), 49(3).
224	1994 s.1.
225	1894 s.551.
226(1),(2)	1894 s.552(1),(2).
(3),(4)	1894 s.552(3),(4); 1993 Sch.4 para.30; 1994 Sch.2 para.1(3).

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(5)	Drafting.
(6)	Drafting.
227	1894 s.553.
228(1) to (3)	1894 s.555(1); 1993 Sch.4 para.30.
(4)	1894 s.555(2).
(5)	1894 s.555(2A); 1994 Sch.2 para.1(4).
(6)	1894 s.555(2).
(7)	1894 s.555(3).
229(1)	1894 s.556; 1993 Sch.4 para.30.
(2)	1894 s.556; 1994 Sch.2 para.1(5).
(3)	1894 s.556.
(4)	Drafting.
230(1),(2)	Crown Proceedings Act 1947 (c.44) s.8; 1994 Sch.2 para.3.
(3) to (5)	1894 s.557; Defence (Transfer of Functions) Act 1964 (c.15) ss.1(2), 3(2).
(6)	Drafting.
(7)	Crown Proceedings Act 1947 s.38(2).
(8)	Crown Proceedings Order 1981 (SI 1981/233) art.30(1).
231(1)	1894 ss.511, 512, 513, 515.
(2)	1894 s.516(1); 1993 Sch.4 para.21.
(3), (4)	1894 s.516(2).
(5)	1894 s.511(1).
232	1894 ss.511, 680(1)(b).
233	1894 ss.512, 680(1)(b); 1993 Sch.4 para.2(5).
234(1) to (4)	1894 s.513(1).
(5),(6)	1894 s.513(2).
(7)	1894 s.513(3); 1982 CJ s.38(8).
235(1)	1894 s.515; Public Order Act 1986 (c.64) s.10(1).
(2),(3)	1894 s.515, first paragraph.
(4)	1894 s.515, second paragraph; Local Government (Scotland) Act 1973 (c.65) Sch.27 Pt.II para.24; 1993 Sch.4 para.20.

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(5)	1894 s.515, third paragraph; Transfer of Functions (Criminal Injuries to Vessels) (Northern Ireland) Order 1973, SR&O (NI) 1973/56 art.3(1).
236(1) to (3)	1894 ss.518, 681(2); 1906 s.72, 1979 Sch.6 Pt.III; 1993 Sch.4 para.22.
(4)	1894 s.518(2); 1993 Sch.4 para.22(e).
237	1894 s.519; 1979 Sch.6 Pt.VI.
238	1894 s.520; 1993 Sch.4 para.23.
239(1)	1894 s.521(1).
(2),(3)	1894 s.521(2); Consular Conventions Act 1949 (c.29) s.5(2).
240	1894 s.522; 1993 Sch.4 para.24.
241	1894 s.523.
242	1894 s.524; 1993 Sch.4 para.25.
243	1894 s.525; 1898 s.1(1)(a).
244	1894 s.527.
245	1894 s.535; Criminal Justice Act 1948 (c.58) s.1; 1993 Sch.4 para.2(5).
246(1),(2)	1894 s.536(1).
(3)	1894 s.536(2).
(4)	1894 s.536(1).
(5)	1894 s.536(1),(2); 1979 Sch.6 Pt.II.
247	1894 s.537; 1993 Sch.4 para.28.
248	1894 s.566; 1993 Sch.4 para.31.
249	1894 s.567(1) to (3); 1993 Sch.4 para.32.
250	1894 s.568.
251	1894 s.569(2).
252(1),(2)	1894 s.530.
(3)	1894 s.532.
(4)	1894 s.530(c).
(5)	1894 s.530, proviso (1).
(6),(7),(8)	1894 s.530, proviso (2).
(9)	1894 s.532.
(10)	1894 s.534.
253(1)	1894 s.531(1).

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(2) to (4)	1894 s.531(2) to (4); 1988 Sch.5.
254	1894 s.533.
255(1)	1894 ss.510,742.
(2)	Sea Fisheries Act 1968 (c.77) s.17.
(3)	1894 s.570.
256(1)	1894 ss.728; 1971 POP s.18(1)(a),(b); 1993 Sch.4 paras.17(a), final limb, 56.
(2), (3), (4)	1894 ss.724(1); 1906 s.75(1).
(5)	1894 s.724(2); 1906 s.75(4).
(6), (7)	1984 s.7(1), (2).
(8)	1971 POP s.18(2); 1993 Sch.4 para.17(a).
(9)	1894 s.724(1); 1979 s.28(5); 1993 Sch.4 para.56(c).
257	1894 s.723; 1979 Sch.6 Pts.I, VI; 1993 Sch.4 para.6(1).
258(1), (2)	1970 s.76(1); 1979 s.37(5).
(3)	1970 s.76(2).
(4)	1970 s.76(3); S.I. 1989/102 reg.1(3)(b).
(5)	1970 s.76(4); 1979 Sch.6 Pt.IV.
259(1)	1979 s.27(1); 1971 POP s.18(3); 1984 s.7(3).
(2)	1979 s. 27(1); 1971 POP s.18(3); 1993 Sch.4 para.57.
(3)	1971 POP s.18(5).
(4)	1971 POP s.18(3)(b); 1979 s.28(7)(c).
(5)	1971 POP s.30(3); 1993 Sch.4 para.17(a),(d).
(6)	1971 POP s.18(6); 1993 Sch.4 para. 17(b).
(7)	1971 POP s.18(7); 1979 s.27(2).
(8) to (12)	1979 s.27(3) to (7).
260	1979 s.28(1) to (4).
261	1984 ss.1,11, Sch.1.
262	1984 s.2; 1988 Sch.5.
263	1984 s.3.
264	1984 s.4; Courts and Legal Services Act 1990 (c.41) Sch.10 para.55.

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265	1984 s.5.
266	1984 s.6.
267	1988 s.33.
268(1), (2)	1970 ss.56(1), (1A); 1988 Sch.6.
(3)	1970 s.56(2); Magistrates' Courts Act 1980 (c.43) Sch.7 para.90.
(4), (5)	1970 s.56(3), (4).
(6)	1970 s.59; 1979 s.43(1) Sch.6 Pt.II.
(7)	1970 s.60.
(8), (9), (10)	1970 s.56(5), (6), (6A); 1988 s.48, Sch.5.
(11)	1970 s.56(7); Magistrates' Courts Act 1980 (c.43) Sch.7 para 90; Magistrates' Courts (Northern Ireland) Order 1981 (SI 1981/1675, Sch.6 Pt.I para.18).
269(1) to (4)	1970 s.57.
(5)	1970 s.60.
270	1970 s.58; 1988 Sch.6.
271(1)	1970 s.61(1).
(2),(3)	1970 s.61(1A), (1B); 1979 s.29(1).
(4)	1970 s.61(2); 1979 s.28(7)(b).
(5)	1970 s.61(3); 1979 s.29(2).
(6)	1970 s.61(4); Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (c.14) Sch.1 para.1.
272	1970 s.95(1), Sch.2, Pt.I para.5; 1979 s.28(7)(b).
273	1979 s.30(2).
274(1),(2)	1894 s.683(1); 1971 POP s.19(4); 1979 s.42(1), 1993 Sch.4 para.59.
(3),(4)	1979 s.42(2), (3).
(5)	1979 s.42(5).
275	1894 s.683(2); 1993 Sch.4 para.59.
276	1894 s.703(b); 1979 Sch.6 Pt.VII para.14.
277	1894 s.687A; 1993 Sch.4 para.63.
278	1894 s.687B; 1993 Sch.4 para.63.
279	1894 s.684; 1971 POP s.19(5); 1993 Sch.4 para.60.

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280	1894 s.685.
281	1894 s.686(1); 1993 Sch.4 para.61.
282	1894 s.687; 1993 Sch.4 para.62.
283(1),(2)	1894 s.689(1); 1970 Sch.3 para.2.
(3) to (5)	1894 s.689(2); 1993 Sch.4 para.64.
(6)	1894 s.689(3).
(7)	1894 s.689(4); 1979 Sch.6 Pt.IV.
(8)	1894 s.689 (5).
(9)	1894 s.689(2),(4).
284(1) to (3)	1894 s.692(1); 1979, Sch.6 Pt.VII para.10.
(4), (5)	1894 s.692(2); 1979, Sch.6 Pt.VII para.11.
(6), (7)	1894 s.692(3), (4).
(8)	1894 s.692(5); 1988 Sch.6.
285	1894 s.693; 1993 Sch.4 para.65.
286(1),(2)	1894 s.691(1),(2).
(3)	1894 s.691(3).
(4)	1894 s.691(1).
(5)	1894 s.691(4) part.
287	1894 s.256(1); 1970 s.75.
288(1)	1894 s.695(1) 1970 Sch.3 para.3.
(2),(3)	1894 s.695(2); 1970 Sch.3 para.3; Merchant Shipping Act (Safety Conventions) 1949 (c.43) s.33(2), Sch.2; 1993 Sch.4 para.67(a).
(4)	1894 s.695(2)(b); 1949 <i>ibid</i> , 1993 Sch.4 para.67(a).
(5)	1894 ss.695(3), 680(1)(a); 1993 Sch.4 para.67(b).
(6),(7)	1894 s.695(4),(5); 1993 Sch.4 para.72.
(8)	1894 s.695(3A); 1993 Sch.4 para.67(c).
289	1970 s.75A; 1988 Sch.5.
290(1),(2)	1894 s.697.
(3)	1894 s.697(2); 1993 Sch.4 para.69.
291	1894 s.696; 1993 s.9(3), Sch.4 para.68.
292(1)	1894 s.713.

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(2)	1894 s.717.
293	1994 s.8.
294	1906 s.78.
295(1) to (3)	1970 s.80(1).
(4)	1970 s.80(2).
(5)	1993 s.1(3).
296	1970 s.81.
297(1)	1970 s.82(1).
(2)	1970 s.82(1A); Judicial Pensions and Retirement Act 1993 (c.8) Sch.6 para.59.
(3)	1970 s.82(2).
(4),(5)	1970 s.83.
298	1894 s.256(1).
299(1),(2)	1894 s.714.
(3)	1894 s.715.
(4) to (6)	1894 s.726; 1979 Sch.6 Pt.II.
300(1) to (6)	1894 s.720.
(7)	1894 s.722(2)(b); 1979 Sch.6 Pt.I.
(8)	1894 s.722 (1); 1993 Sch.4 para.73.
301	1906 s.79.
302(1),(3)	1993 Sch.4 para.79.
(2)	Merchant Shipping (Safety Convention) Act 1949 (c.43) s.33(2), Sch.2 (1894 s.83).
303	1894 s.718; 1898 s.1(1)(b).
304(1)(a)	1894 s.662B; 1970 s.98(1); 1970 FV s.10; 1971 POP s.28(1); 1979 ss.23(1)(f), 51(1); 1984 s.10; 1988 s.55(1).
(b)	1894 s.677(1)(b),(d); 1988 Sch.5.
(c)	Merchant Shipping (Safety Conventions) Act 1949 (c.43) s.25.
(d)	1894 s.677(1)(g).
(e)	1894 s.677(1)(f).
(f)	1894 s.677(1)(h).
(g)	1894 s.677(1)(l); Merchant Shipping Repeal Act 1854 (c.120) s.7.
(h)	1894 s.677(1)(o); 1988 Sch.5.

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(2)	1949 <i>ibid</i> ; Merchant Shipping (Safety Convention) Act 1977 (c.24) s.1(2).
305(1)(a)	1894 s.676(1)(a); 1988 Sch.5.
(b)	1894 s.676 (1)(h).
(c)	1894 s.676(1)(l); 1988 Sch.5.
(2)	1894 s.676(2).
306	1894 s.739(1); Merchant Shipping (Load Lines) Act 1967(c.27) s.30(3); 1970 s.99; 1970 FV s.7; 1971 POP s.27; 1974 s.17(2); 1979 ss.23(4), 41(2), 49; Safety at Sea Act 1986 (c.23) s.9(2),(3); 1988 s.53(1); 1993 Sch.4 para.1(2).
307	1993 Sch.4 para.5.
308	1894 s.738(2), s.741; 1906 s.80; 1993 Sch.2 para.3.
309	1988 s.47; 1993 Sch.2 para.15(3).
310	1970 Sch.3 para.13; 1971 s.17; 1971 POP s.31; 1979 s.48; 1984 s.9; 1988 s.49.
311	1979 s.41(1).
312(1)	1894 s.710; 1993 Sch.4 para.76.
(2)	1911 MC s.5.
313	1894 s.742; 1993, Sch.4 para.2(1),(2).
314(1) to (3)	
(4)	1993 s.10(6).
315(2) to (5)	1993 s.9(3), Sch.4 para.4(1) to (5).
316	
Sch. 1	1993 s.6(1), Sch.1.
Sch. 2	1974 s.17(3), Sch.5; 1979 Sch.6 Pt.VI para.20.
Sch. 3	Merchant Shipping (Load Lines) Act 1967 (c.27)
paras.1,2	ss.1,2.
3	s.3; 1979 Sch.6 Pt.V, 1993 Sch.4 para.12(6).
4	s.4; 1979 Sch.6 Pt.V, Pt.VII para.7.
5	s.5; 1979 Sch.6 Pt.IV.
6 to 9	ss.6 to 9.
10	s.10; 1970 Sch.3 para.12.



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11	s.11(1).
12	s.12.
13	s.13; 1979 Sch.6 Pt.V, 1993 Sch.4 para.12(6).
14 to 16	ss.14 to 16.
17	s.17; 1993 Sch.4 para.12(6).
18 to 22	ss.18 to 22.
23	s.23; 1995 SC reg.1(7).
24	s.24; 1979 Sch.6 Pt.IV.
25	s.27(1).
26	s.27(3); 1894 s.280(1), (2).
27	s.27(3); 1894 s.282.
28	s.27(5).
29	s.31.
30	s.30(1).
31	s.32(1) to (7).
Sch. 4	
Chap.III	
152	1971 s.19.
153	1971 s.1.
154	1971 s.1A; 1994 Sch.3 Pt.I para.1.
155	1971 s.2.
155A	1971 s.2A; 1994 Sch.3 Pt.I para.2.
156	1971 s.3.
156A	1971 s.3A; 1994 Sch.3 Pt.I para.3.
157	1971 s.4; 1979 s.38(1)(a),(b); 1984 s.12(2).
158	1971 s.5; 1979 s.38(2); 1979 Sch.5 para.6(1).
159	1971 s.6.
160	1971 s.7; 1979 Sch.5 para.6(1).
161	1971 s.8.
162	1971 s.9; 1994 Sch.3 Pt.I para.4.
163	1971 s.10; 1979 s.38(3).
164	1971 s.11; 1979 s.38(3).
165	1971 s.12.

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166	1971 s.13; [F39Senior Courts Act 1981] (c.54) Sch.5.
167	1971 s.14; 1979 s.38(3).
168	1971 s.15(2); 1979 Sch.5 para.6(2); 1994 Sch.3 Pt.I para.5.
169	1971 s.16.
170	1971 s.20; 1994 Sch.3 Pt.I para.6.
Chap.IV	
172	1974 s.1(1),(2).
173	1974 s.2; 1979 s.38(4)(b); 1982 CJ s.38(9), Companies Consolidation (Consequential Provisions) Act 1985 (c.9) Sch.2, Companies Consolidation (Consequential Provisions) Order 1986 (SI 1986/1035 (N.I.9)), Sch.1 Pt.II.
174	1974 s.3; 1979 Sch.6 Pt.IV; 1979 Sch.6 Pt. VI para.18.
175	1974 s.4(4) to (9)
176	1974 s.4(10) to (13); 1979 s.38(4)(b), (c).
176A	1974 s.5; 1979 s.38(4)(d),(e).
177	1974 s.6; 1979 s.38(4)(b); [F39Senior Courts Act 1981] (c.54) Sch.5.
178	1974 s.7.
179	1974 s.8; 1994 s.7(1).
181	1974 ss.1(3),(4),(5), 23(2).
Sch. 5	
Part I	1974 Sch.1; 1988 Sch.4 Pt.II para.24; 1994 s.5(2)(a).
Part II	1974 Sch.1; 1979 s.38(4)(g).
Sch. 6	
Part I	1979 Sch.3 Pts.I, III.
Part II	1979 Sch.3 Pts.II, III.
Sch. 7	
Part I	1979 Sch.4, Pt.I.
Part II	1979 s.49(5), Sch.4, Pt.II; 1995 SC reg.1(8).
Sch. 8	1894 s.668; 1974 s.18, 1979 s.33(2), Local Government (Scotland) Act 1994 (c.39) Sch.13 para.7.

*Status: Point in time view as at 01/10/2017.*

**Changes to legislation:** Merchant Shipping Act 1995 is up to date with all changes known to be in force on or before 16 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)

Sch. 9	Ports Act 1991 (c.52) s.32.
Sch. 10	Harbours Act 1964 (c.40) s.35.
Sch. 11	
Part I	1994 Sch.1, Pt.I.
Part II	1994 Sch.1, Pt.II.
Sch. 12	
Sch. 13	
Sch. 14	
para.2	1993 s.9(4).
3	Merchant Shipping Act 1948 (c.44) s.5.
4	1979 s.37(2),(3).
7	1993 Sch.5; saving.
8	1979 s.38(6).
9	1894 s.669; 1979 s.36(3).
10	1894 s.571.
11	1894 s.745(1)(f).

#### Textual Amendments

**F39** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604](#), art. 2(d)

**Status:**

Point in time view as at 01/10/2017.

**Changes to legislation:**

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