



Merchant Shipping Act 1974

1974 CHAPTER 43

PART I

THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND

1 Interpretation of Part I

- (1) In this Part of this Act—
- (a) the "Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage opened for signature in Brussels on 29th November 1969,
 - (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.
- (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 the Convention in respect of that country.
- (3) In this Part of this Act, unless the context otherwise requires—
- the "Act of 1971" means the Merchant Shipping (Oil Pollution) Act 1971,
 - "damage" includes loss,
 - "discharge or escape", in relation to pollution damage, means the discharge or escape of oil carried by the ship,
 - "guarantor" means any person providing insurance or other financial security to cover the owner's liability of the kind described in section 10 of the Act of 1971,
 - "oil", except in sections 2 and 3, means persistent hydrocarbon mineral oil,

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" 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,

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

- (4) For the purposes of this Part of this Act 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 2240 lbs.) of oil which the ship is capable of carrying.

- (5) For the purposes of this Part of this Act, 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.
- (6) In this Part of this Act a franc shall be taken to be a unit of 65 ½ milligrammes of gold of millesimal fineness 900.
- (7) The Secretary of State may from time to time by order made by statutory instrument specify the amounts which for the purposes of this Part of this Act are to be taken as equivalent to any specified number of francs.

Contributions to Fund

2 Contributions by importers of oil and others

- (1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in the United Kingdom.
- (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.

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- (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 and notified to him 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 said Assembly, until it is paid.
- (8) The Secretary of State may by regulations contained in a statutory instrument 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 to the Fund.

Regulations under this subsection—

- (a) may contain such supplemental or incidental provisions as appear to the Secretary of State expedient,
 - (b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding £400, or such lower limit as may be specified in the regulations, and
 - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this and the next following section, 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 154 of the Companies Act 1948 (or for companies in Northern Ireland section 148 of the Companies Act (Northern Ireland) 1960), 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 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
 - (i) 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 D 396-69)", or heavier.

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" 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.

- (10) In this section " sea " does not include any waters on the landward side of the baselines from which the territorial sea of the United Kingdom is measured.

3 Power to obtain information

- (1) For the purpose of transmitting to the Fund the names and addresses of the persons who under the last preceding section 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 subsection (6) of the last preceding section.
- (3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.
- (4) In proceedings by the Fund against any person to recover any amount due under the last preceding section, 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, he shall, 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,
- be liable on summary conviction to a fine not exceeding £400.
- (6) A person who—
- (a) refuses or wilfully neglects to comply with a notice under this section, or
 - (b) in furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,
- shall be liable—
- (i) on summary conviction to a fine not exceeding £400. 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

4 Liability of the Fund

- (1) The Fund shall be liable for pollution damage in the United Kingdom if the person suffering the damage has been unable to obtain full compensation under section 1 of the Act of 1971 (which gives effect to the Liability Convention)—
 - (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 2 of the Act of 1971), or
 - (b) because the owner or guarantor liable for the damage cannot meet his obligations in full, or
 - (c) because the damage exceeds the liability under section 1 of the Act of 1971 as limited—
 - (i) by section 4 of the Act of 1971. or
 - (ii) (where the said section 4 is displaced by section 9 of this Act) by section 503 of the Merchant Shipping Act 1894.
- (2) Subsection (1) above shall apply with the substitution for the words " the 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 both in the United Kingdom and in 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 both in the United Kingdom and in another country in respect of which the Liability Convention is in force, references in this section to the provisions of the Act of 1971 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 the Act of 1971 shall be treated as references to the corresponding provisions of the law of the country in which those proceedings were brought.
- (5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

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- (6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 1 of the Act of 1971.
- (7) The Fund shall incur no obligation under this section if—
- (a) it proves that the pollution damage—
 - (i) resulted from an act of war, hostilities, civil war or insurrection, or
 - (ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service, or
 - (b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.
- (8) If the Fund proves that the pollution damage resulted wholly or partly—
- (a) from 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,
- the Fund may be exonerated wholly or partly from its obligation to pay compensation to that person:
- Provided that this subsection shall not apply to a claim in respect of expenses or sacrifices made voluntarily to prevent or minimise pollution damage.
- (9) Where the liability under section 1 of the Act of 1971 is limited to any extent by subsection (5) of that section (contributory negligence), the Fund shall be exonerated to the same extent.
- (10) The Fund's liability under this section shall be subject to the limits imposed by paragraphs 4, 5 and 6 of Article 4 of the Fund Convention which impose an overall liability on the liabilities of the owner and of the Fund, and the text of which is set out in Schedule 1 to this Act.
- (11) 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.
- (12) For the purpose of giving effect to the said provisions of Article 4 of the Fund Convention a court giving judgment against the Fund in proceedings under this section 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 the said provisions of Article 4 of the Fund Convention, 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.

Indemnification of shipowners

5 Indemnification where damage is caused by ship registered in Fund Convention country

- (1) Where a liability is incurred under section 1 of the Act of 1971 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 1500 francs for each ton of the ship's tonnage or of an amount of 125 million francs, whichever is the less, and
 - (b) is not in excess of an amount equivalent to 2000 francs for each ton of the said tonnage or an amount of 210 million francs, 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 United Kingdom (as well as in 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 1 of the Act of 1971 ".
- (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—
 - (a) may be varied or revoked by a subsequent order so made, or
 - (b) may contain such transitional or other supplemental provisions as appear to the Secretary of State to be expedient, and
 - (c) shall be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (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.

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Supplemental

6 Jurisdiction and effect of judgments

- (1) Paragraph (d) of section 1(1) of the Administration of Justice Act 1956 and paragraph 1(1)(d) of Schedule 1 to that Act (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 Part of this Act; 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 1 of the Act of 1971, 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 the Act of 1971 for damage which is partly in the area of the United Kingdom, subsection (2) above shall, for the purpose of proceedings under this Part of this Act, 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 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 4 or 5 of this Act; and in its application to such a judgment the said Part I shall have effect with the omission of subsections (2) and (3) of section 4 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 Schedule 1 to this Act) or that it is to be reduced to a specified amount; and
 - (b) in the latter case, the judgment shall be enforceable only for the reduced amount.

7 Extinguishment of claims

- (1) No action to enforce a claim against the Fund under this Part of this Act 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 subsections (2) and (3) of the last preceding section.
- (2) No action to enforce a claim against the Fund under this Part of this Act 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 section 5 of this Act 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 the Act of 1971 (that is to say an action to enforce a liability against which he seeks indemnity), or under the corresponding provisions of the law of any country outside the United Kingdom giving effect to the Liability Convention.

8 Subrogation and rights of recourse

- (1) In respect of any sum paid under section 4(1)(b) of this Act (default by owner or guarantor on liability for pollution damage) the Fund shall acquire by subrogation the rights of the recipient against the owner or guarantor.
- (2) The right of the Fund under subsection (1) above is subject to any obligation of the Fund under section 5 of this Act to indemnify the owner or guarantor for any part of the liability on which he has defaulted.
- (3) In respect of any sum paid—
 - (a) under paragraph (a) or paragraph (c) of section 4(1); or
 - (b) under section 5,the Fund shall acquire by subrogation any rights of recourse or subrogation which the owner or guarantor or any other person has in respect of his liability for the damage in question.
- (4) 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 Part of this Act.

9 Modification of limitation of liability under Act of 1971

In the Act of 1971 after section 8 there shall be inserted the following section—

“8A Cases excluded from sections 4 to 8.

- (1) Sections 4 to 8 of this Act shall not apply to a ship which at the time of the discharge or escape was registered in a country—
 - (a) which was not a Convention country, and
 - (b) which was a country in respect of which the 1957 Convention was in force.
- (2) In this section ' the 1957 Convention ' means the International Convention relating to the Limitation of the Liability of Owners of Seagoing Ships signed in Brussels on 10th October 1957.
- (3) If Her Majesty by Order in Council declares that any country—
 - (a) is not a Convention country within the meaning of this Act, and
 - (b) is a country in respect of which the 1957 Convention is in force,or that it was such a country at a time specified in the Order, the Order shall, while in force, be conclusive evidence of the facts stated in the Order.”

PART II

OIL TANKERS

10 Interpretation of Part II

- (1) In this Part of this Act " the Conventions " means—
 - (a) Article VI his and Annex C of the International Convention, signed in London on 12th May 1954, for the Prevention of Pollution of the Sea by Oil, which Article and Annex were added on 15th October 1971 by resolution of the Assembly of the Inter-governmental Maritime Consultative Organisation ; and
 - (b) any other international convention, or amendment of an international convention, which relates in whole or in part to prevention of pollution of the sea by oil, and which has been signed for the United Kingdom before the passing of this Act, or later.
- (2) In this Part of this Act " Convention country " means a country in respect of which a State is a party to any of the Conventions.
- (3) If Her Majesty by Order in Council declares that any State specified in the Order is a party to any of the Conventions in respect of any country so specified, the Order shall, while in force, be conclusive evidence that that State is a party to the Convention in respect of that country.
- (4) In this Part of this Act—
 - " oil tanker " means a ship which is constructed or adapted primarily to carry oil in bulk in its cargo spaces (whether or not it is also so constructed or adapted as to be capable of carrying other cargoes in those spaces),
 - " United Kingdom oil tanker " means an oil tanker registered in the United Kingdom,
 - "oil " means crude oil, fuel oil (including diesel oil) and lubricating oil,
 - " port " includes an off-shore terminal, and references to entering or leaving a port shall include references to using or ceasing to use an off-shore terminal.

11 Design and construction of oil tankers

- (1) For the purpose of preventing pollution of the sea by oil, the Secretary of State may make rules (called "oil tanker construction rules") prescribing requirements to be complied with by United Kingdom oil tankers in respect of their design and construction.
- (2) The said rules may include such requirements as appear to the Secretary of State to implement any of the provisions of the Conventions, so far as they relate to prevention of pollution of the sea by oil.

This subsection applies whether or not the said provisions are for the time being binding on Her Majesty's Government in the United Kingdom.
- (3) Oil tanker construction rules may provide—
 - (a) for oil tankers to be surveyed and inspected with a view to determining whether they comply with the rules,

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- (b) for a tanker which on a survey is found to comply to be issued with a certificate called a " tanker construction certificate ", and
 - (c) for a tanker which is not required to comply with the rules to be issued with a certificate called a " tanker exemption certificate ".
- (4) Schedule 2 to this Act shall have effect for supplementing this Part of this Act.
- (5) It is hereby declared that the oil tankers to which rules under this section may be applied include those designed or constructed before the rules come into force, and that the following provisions of this Part of this Act apply whether the oil tanker in question was designed or constructed before or after the relevant requirements as to design or construction came into force.
- (6) Oil tanker construction rules shall be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

12 Restrictions on tankers sailing from United Kingdom ports

- (1) No oil tanker shall proceed, or attempt to proceed, to sea unless—
- (a) it is a certificated oil tanker (within the meaning of Schedule 3 to this Act), or
 - (b) it is not registered in the United Kingdom, and—
 - (i) if it were a United Kingdom oil tanker, it would qualify for the issue of a tanker exemption certificate, or
 - (ii) its gross tonnage is less than 150 tons, or
 - (c) the Secretary of State has issued it with leave to sail.
- (2) Where an application is made for leave to sail to be issued to an oil tanker, then—
- (a) if the tanker is registered in the United Kingdom, the Secretary of State may issue it with leave to sail where he considers it appropriate to do so;
 - (b) if the tanker is not registered in the United Kingdom, the Secretary of State—
 - (i) shall issue it with leave to sail if he is satisfied that it would qualify for the issue of a tanker construction certificate if it were a United Kingdom oil tanker; and
 - (ii) may, if he is not so satisfied, issue it with leave to sail where he considers it appropriate to do so.
- (3) Leave to sail issued under paragraph (a) or (b)(ii) of subsection (2) above may be issued subject to conditions imposed with a view to preventing or limiting the danger of oil pollution, including—
- (a) conditions as to the cargo with which the tanker may sail;
 - (b) a condition that the tanker sails only to a specified port in the United Kingdom or elsewhere.
- (4) Subject to subsection (5) below, if—
- (a) an oil tanker proceeds, or attempts to proceed, to sea in contravention of subsection (1) above; or
 - (b) leave to sail having been issued to an oil tanker under this section subject to conditions, it proceeds to sea but the conditions are not complied with,
- the owner and master of the tanker shall each be liable on summary conviction to a fine of not more than £10,000, or on conviction on indictment to a fine.
- (5) In proceedings under subsection (4) above, it shall be a defence to prove that in order—

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- (a) to ensure the safety of the oil tanker, or
 - (b) to reduce the risk of damage to any other vessel or property,
- it was necessary for the tanker to proceed to sea in contravention of subsection (1) above or, as the case may be, without complying with the conditions mentioned in paragraph (b) of subsection (4). In this section " damage " does not include damage caused by contamination resulting from the escape or discharge of oil from a tanker.

13 Restrictions on uncertificated tankers

- (1) If it appears to the Secretary of State that an oil tanker is not certificated (within the meaning of Schedule 3 to this Act) he may direct the oil tanker—
 - (a) not to enter any port in the United Kingdom (or not to enter one or more specified ports in the United Kingdom); or
 - (b) not to enter all or any ports in the United Kingdom except subject to specified conditions.
- (2) A direction may be given under this section in respect of an oil tanker which is for the time being in a port in the United Kingdom, so as to apply after it leaves that port.
- (3) Directions under this section shall be addressed to the master or owner of the tanker, or to both, and may be communicated by any means which appear to the Secretary of State suitable for the purpose.
- (4) Subject to subsection (5) below, if an oil tanker enters a port in the United Kingdom in contravention of a direction under this section, or without complying with any conditions imposed under this section, the owner and the master of the tanker shall each be liable on summary conviction to a fine not exceeding £15,000, or on conviction on indictment to a fine.
- (5) In proceedings under subsection (4) above, it shall be a defence to prove that the tanker entered the port out of necessity due—
 - (a) to an emergency involving a threat to any person's life or the safety of the tanker, or
 - (b) to circumstances outside the control of the tanker's master.

PART III

PROTECTION OF SHIPPING AND TRADING INTERESTS

14 Foreign action affecting shipping

- (1) The Secretary of State may exercise the powers conferred by this section if he is satisfied that a foreign government, or any agency or authority of a foreign government, have adopted, or propose to adopt, measures or practices concerning or affecting the carriage of goods by sea which—
 - (a) are damaging or threaten to damage the shipping or trading interests of the United Kingdom, or
 - (b) are damaging or threaten to damage the shipping or trading interests of another country, and the Secretary of State is satisfied that action under this section would be in fulfilment of the international obligations of Her Majesty's Government to that other country.

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- (2) The Secretary of State may by order make provision for requiring persons in the United Kingdom carrying on any trade or business to provide the Secretary of State with all such information as he may require for the purpose of enabling him—
 - (a) to determine what further action to take under this section, and
 - (b) to ensure compliance with any orders or directions made or given under this section.
- (3) The Secretary of State may by order provide for—
 - (a) regulating the carriage of goods in ships and the rates which may or must be charged for carrying them;
 - (b) regulating the admission and departure of ships to and from United Kingdom ports, the cargoes they may carry, and the loading or unloading of cargoes;
 - (c) regulating the making and implementation of agreements (including charter-parties) whose subject matter relates directly or indirectly to the carriage of goods by sea, and requiring such agreements to be subject to the Secretary of State's approval in such cases as he may specify;
 - (d) imposing charges in respect of ships which enter United Kingdom ports to load or unload cargo.
- (4) In a case falling within subsection (1)(a) above, an order under subsection (3) above shall specify the measures or practices which in the opinion of the Secretary of State are damaging or threaten to damage shipping or trading interests of the United Kingdom.
- (5) An order under this section may authorise the Secretary of State to give directions to any person for the purposes of the order:

Provided that this subsection shall not apply for the purpose of recovering charges imposed under subsection (3)(d) above.
- (6) Any order or direction made or given under this section—
 - (a) may be either general or special, and may be subject to such conditions or exceptions as the Secretary of State specifies (including conditions and exceptions operating by reference to the giving or withholding of his approval for any course of action);
 - (b) may be in terms that require compliance either generally or only in specified cases ;
 - (c) may be varied or revoked by a subsequent order, or as the case may be, a subsequent direction, so made or given,and an order made pursuant to this section shall be contained in a statutory instrument.
- (7) Before the Secretary of State makes an order under this section he shall consult such representatives of the shipping or trading interests of the United Kingdom, and such other persons, as appear to him appropriate.
- (8) 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, he shall, 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,

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be liable on summary conviction to a fine not exceeding £400.

- (9) A person who—
- (a) refuses or wilfully neglects to furnish any information which he is required to furnish under this section, or
 - (b) in furnishing any such information 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 on summary conviction to a fine not exceeding £400.

- (10) A person who wilfully contravenes or fails to comply with any provision of an order or direction made or given pursuant to this section, other than a provision requiring him to give any information, shall be liable—

- (a) on summary conviction to a fine of not more than £5,000 ;
- (b) on conviction on indictment to a fine;

and where the order or direction requires anything to be done, or not to be done, by, to or on a ship, and the requirement is not complied with, the owner and master of the ship are each to be regarded as wilfully failing to comply, without prejudice to the liability of anyone else.

- (11) In this section "foreign government" means the government of any country outside the United Kingdom; and references to ships are to ships of any registration.

- (12) Schedule 4 to this Act shall have effect for supplementing this section, which in that Schedule is called "the principal section ".

15 Parliamentary control of orders under Part III

- (1) No order shall be made in exercise of the powers conferred by subsection (3) of the last preceding section unless—

- (a) a draft has been approved by resolution of each House of Parliament, or
- (b) it is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.

- (2) An order made in exercise of the powers conferred by the said subsection (3) without a draft having been approved by resolution of each House of Parliament shall cease to have effect at the expiration of a period of 28 days beginning with the date on which it was made unless before the expiration of that period it has been approved by resolution of each House of Parliament, but without prejudice to anything previously done, or to the making of a new order.

In reckoning for the purposes of this subsection any period of 28 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

- (3) An order under the last preceding section which is not made in exercise of the powers conferred by subsection (3) of that section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (4) If an order under that section recites that it is not made in exercise of the powers conferred by the said subsection (3), the recital shall be conclusive.

PART IV

SUBMERSIBLE APPARATUS

16 Apparatus to which Part IV applies

- (1) This Part of this Act applies to any submersible or supporting apparatus—
 - (a) operated within waters which are in the United Kingdom or which are adjacent thereto and within the seaward limits of territorial waters, or
 - (b) launched or operated from, or comprising, a ship registered in the United Kingdom or a British ship of a specified description (being a British ship which is not registered in the United Kingdom).
- (2) In this section—
 - " apparatus " includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment,
 - " specified " means specified in regulations made by the Secretary of State for the purposes of this section,
 - " submersible apparatus " means any apparatus used, or designed for use, in supporting human life on or under the bed of any waters or elsewhere under the surface of any waters, and
 - " supporting apparatus " means any apparatus used or designed for use, in connection with the operation of any submersible apparatus.

17 Safety of submersible and supporting apparatus

- (1) The Secretary of State may make regulations—
 - (a) for the safety of submersible and supporting apparatus ;
 - (b) for the prevention of accidents in or near submersible or supporting apparatus;
 - (c) for the safety, health and welfare of persons on or in submersible and supporting apparatus ;
 - (d) for prohibiting or otherwise restricting the operation of any submersible apparatus except in accordance with the conditions of a licence granted under the regulations ; and
 - (e) for the registration of submersible apparatus.
- (2) Regulations made under this section shall be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Schedule 5 to this Act shall have effect for supplementing the provisions of this section.

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PART V

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

18 Commissioners of Northern Lighthouses

- (1) Section 668 of the Merchant Shipping Act 1894 (constitution of Commissioners of Northern Lighthouses) shall be amended as follows.
- (2) After paragraph (d) of subsection (1) there shall be inserted—
 - “(dd) a person nominated by the Lieutenant-Governor of the Isle of Man and appointed by the Secretary of State”.
- (3) At the end of the said section 668 there shall be added—
 - “(4) The Commissioners may elect, as members of their body, not more than four other persons.
 - (5) A person appointed by the Secretary of State under subsection (1)(dd) above, or a person appointed by the Commissioners under subsection (4) above, shall hold office for three years, but shall be eligible for re-appointment.”

19 Offences by seamen

- (1) The Merchant Shipping Act 1970 shall be amended in accordance with the following provisions of this section.
- (2) In section 27 (which creates an offence in relation to misconduct endangering a ship or persons on board, punishable on summary conviction with a fine not exceeding £200) for the words " £200 " there shall be substituted the words " £400 ".
- (3) Section 29 (which makes it an offence wilfully to disobey a lawful command relating to, or likely to affect, the operation of a ship or of its equipment) and section 31 (which makes it an offence in certain circumstances for a seaman to be absent without leave at the time of sailing) are hereby repealed.
- (4) In section 30 (continued or concerted disobedience, neglect of duty, etc.) for the words from the beginning of paragraph (c) to the end there shall be substituted:—
 - “(c) combines with other seamen employed in that ship—
 - (i) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea ;
 - (ii) to neglect any duty which is required to be discharged at such a time ; or
 - (iii) to impede, at such a time, the progress of a voyage or the navigation of the ship,
 he shall be liable on summary conviction to a fine not exceeding £100.
 For the purposes of this section a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.”

- (5) In section 34(2) (which imposes a limit of £10 on the amount of any fine which may be imposed on a seaman for a "disciplinary offence") for the words "£10" there shall be substituted the words "£20".
- (6) The following provisions referring to sections repealed by subsection (3) above shall be amended, that is to say—
 - (a) in section 32 the words "29" shall be omitted;
 - (b) in paragraph 2 of Schedule 2 the words "29", in both places, and the words "or 31" shall be omitted;
 - (c) in section 95(1)(a) for the words "29 to" there shall be substituted the words "30 and".

Supplemental

20 Extension to British possessions etc.

- (1) Her Majesty may by Order in Council direct that specified provisions of this Act shall extend, subject to specified exceptions, modifications or adaptations, to any of the following countries, that is to say—
 - (a) the Isle of Man;
 - (b) any of the Channel Islands;
 - (c) any colony other than one for whose external relations a country other than the United Kingdom is responsible;
 - (d) any country outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of Her Majesty's Government in the United Kingdom.
- (2) In respect of any country falling within any of paragraphs (a) to (d) of subsection (1) above, Her Majesty may by Order in Council, specifying that country, direct that, with specified exceptions, adaptations or modifications, specified provisions of this Act shall have effect as if references therein to the United Kingdom included references to that country.
- (3) In subsections (1) and (2) above "specified" means specified by an Order under this section.
- (4) Any Order made under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

21 Financial provisions

Any sum received by a Minister under this Act shall be paid into the Consolidated Fund.

22 Offences by bodies corporate

Where an offence under this Act, or under regulations made under any of its provisions, which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body

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corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this section "director", in relation to a body corporate established by or under any enactment for the purpose of carrying on under public ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

23 Construction and interpretation

- (1) This Act shall be construed as one with the Merchant Shipping Acts 1894 to 1971, and without prejudice to the generality of this provision, references in those Acts to the Merchant Shipping Acts shall be construed as including references to this Act.
- (2) References in this Act to the area of any country include the territorial sea of that country, and references to pollution damage in the United Kingdom shall be construed accordingly.
- (3) It is hereby declared that any power to give directions conferred by this Act includes a power to vary or revoke directions so given.
- (4) Except so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

24 Citation, commencement, repeals and extent

- (1) This Act may be cited as the Merchant Shipping Act 1974; and this Act and the Merchant Shipping Acts 1894 to 1971 may be cited together as the Merchant Shipping Acts 1894 to 1974.
- (2) This Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and different days may be appointed for different provisions, or for different purposes.
- (3) An order under subsection (2) above may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions, or any provisions of this Act then in force, as appear to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).
- (4) Sections 324 to 326 and sections 330 and 331 of the Customs Consolidation Act 1853 (which relate to reciprocity in international commerce) are hereby repealed.
- (5) This Act extends to Northern Ireland.