



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART VI

#### PREVENTION OF POLLUTION

#### CHAPTER III

#### LIABILITY FOR OIL POLLUTION

#### *Limitation of liability [F1 under section 153]*

#### Textual Amendments

- F1** Words in s. 157 cross-heading inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **10** (with reg. 1(5))

#### **157** Limitation of liability under section 153.

- (1) Where, as a result of any occurrence, the [F2 registered owner] of a ship incurs liability under section 153 by reason of a discharge or escape or by reason of any relevant threat of contamination [F3 falling within subsection (2) of that section], then (subject to subsection (3) below)—
- (a) he may limit that liability in accordance with the provisions of this Chapter, and
  - (b) if he does so, his liability (being the aggregate of his liabilities under section 153 resulting from the occurrence) shall not exceed the relevant amount.
- (2) In subsection (1) above, “the relevant amount” means—
- (a) in relation to a ship not exceeding 5,000 tons, [F4 4.51 million] special drawing rights;

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- (b) in relation to a ship exceeding 5,000 tons, [<sup>F5</sup>4.51 million] special drawing rights together with an additional [<sup>F6</sup>631] special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of [<sup>F7</sup>89.77 million] special drawing rights;
- but the Secretary of State may by order make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.
- (3) Subsection (1) above shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the [<sup>F8</sup>registered owner] either with intent to cause any such damage or cost as is mentioned in section 153 or recklessly and in the knowledge that any such damage or cost would probably result.
- (4) For the purposes of this section 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.
- (5) Any such order shall, so far as it appears to the Secretary of State to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969.

#### Textual Amendments

- F2** Words in s. 157(1) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **11(a)** (with reg. 1(5))
- F3** Words in s. 157(1) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **11(a)** (with reg. 1(5))
- F4** Words in s. 157(2)(a) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), arts. 1, **2(2)(a)**
- F5** Words in s. 157(2)(b) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), arts. 1, **2(2)(b)(i)**
- F6** Word in s. 157(2)(b) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), arts. 1, **2(2)(b)(ii)**
- F7** Words in s. 157(2)(b) substituted (1.11.2003) by [The Merchant Shipping \(Oil Pollution Compensation Limits\) Order 2003 \(S.I. 2003/2559\)](#), arts. 1, **2(2)(b)(iii)**
- F8** Words in s. 157(3) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **11(b)** (with reg. 1(5))

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

- C1** S. 157 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**
- S. 157 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**
- S. 157 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**
- S. 157 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, **Sch.**
- S. 157 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, **Sch.**
- s. 157 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, **Sch.**
- s. 157 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, **Sch.**

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- s. 157 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588, art. 2, Sch.](#)
- s. 157 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589, art. 2, Sch.](#)
- s. 157 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590, art. 2, Sch.](#)
- S. 157 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598, arts. 2, 3, Sch. 1](#)
- S. 157 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260, arts. 2, 3, Sch. 1](#)
- S. 157 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261, art. 2, Sch.](#)
- S. 157 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262, art. 2, Sch.](#)
- S. 157 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263, art. 2, Sch.](#)

## 158 Limitation actions.

- (1) Where the [<sup>F9</sup>registered 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 [<sup>F10</sup>but has not found that he is not entitled to limit it], the court shall, after determining [<sup>F11</sup>the limit which would apply to the applicant's liability if he were entitled to limit it] and directing payment into 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 the following provisions of this section.

<sup>F12</sup>[(2A) Where—

- (a) a distribution is made under subsection (2)(b) above without the court having found that the applicant is entitled to limit his liability, and
  - (b) the court subsequently finds that the applicant is not so entitled,
- the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.]
- (3) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling; and
    - (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
      - (i) the day on which the determination is made; or
      - (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
    - (b) a certificate given by or on behalf of the Treasury stating—
      - (i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or
      - (ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Chapter;

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- (c) 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.
- (4) 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.
- (5) 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 [<sup>F13</sup>registered owner] or the persons referred to in section 165 as “the insurer” [<sup>F14</sup>(in relation to any insurance or other security provided as mentioned in subsection (1) of that section)]; 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.
- (6) 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.
- (7) 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.
- (8) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) above.

#### **Textual Amendments**

- F9** Words in s. 158(1) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **12(a)** (with reg. 1(5))
- F10** Words in s. 158(2) substituted (17.7.1997) by [1997 c. 28, s. 29\(1\)](#), **Sch. 6 para. 4(2)(a)**; [S.I. 1997/1539](#), art. 2, **Sch.**
- F11** Words in s. 158(2) substituted (17.7.1997) by [1997 c. 28, s. 29\(1\)](#), **Sch. 6 para. 4(2)(b)**; [S.I. 1997/1539](#), art. 2, **Sch.**
- F12** S. 158(2A) inserted (17.7.1997) by [1997 c. 28, s. 29\(1\)](#), **Sch. 6 para. 4(3)**; [S.I. 1997/1539](#), art. 2, **Sch.**
- F13** Words in s. 158(5)(a) substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **12(b)** (with reg. 1(5))
- F14** Words in s. 158(5)(a) inserted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), **12(b)** (with reg. 1(5))

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

- C2** s. 158 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, **Sch.**
- s. 158 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, **Sch.**
- s. 158 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, **Sch.**

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- s. 158 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), [art. 2](#), [Sch.](#)
- s. 158 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), [art. 2](#), [Sch.](#)
- s. 158 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), [arts. 2, 3](#), [Sch.](#)
- s. 158 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), [art. 2](#), [Sch.](#)
- s. 158 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), [art. 2](#), [Sch.](#)
- s. 158 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), [art. 2](#), [Sch.](#)
- s. 158 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), [art. 2](#), [Sch.](#)
- S. 158 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 158 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), [arts. 2, 3](#), [Sch. 1](#)
- S. 158 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), [art. 2](#), [Sch.](#)
- S. 158 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), [art. 2](#), [Sch.](#)
- S. 158 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), [art. 2](#), [Sch.](#)

## 159 Restriction on enforcement after establishment of limitation fund.

- (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.

### Modifications etc. (not altering text)

- C3**
- s. 159 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), [art. 2](#), [Sch.](#)
  - s. 159 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), [art. 2](#), [Sch.](#)
  - s. 159 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), [art. 2](#), [Sch.](#)
  - s. 159 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), [art. 2](#), [Sch.](#)
  - s. 159 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), [art. 2](#), [Sch.](#)
  - s. 159 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), [arts. 2, 3](#), [Sch.](#)
  - s. 159 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), [art. 2](#), [Sch.](#)
  - s. 159 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), [art. 2](#), [Sch.](#)

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- s. 159 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, Sch.
- s. 159 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, Sch.
- S. 159 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1
- S. 159 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1
- S. 159 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, Sch.
- S. 159 extended (with modifications) to Montserrat (20.5.1998) by S.I. 1998/1262, art. 2, Sch.
- S. 159 extended (with modifications) to Saint Helena (20.5.1998) by S.I. 1998/1263, art. 2, Sch.

## 160 Concurrent liabilities of owners and others.

Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the [<sup>F15</sup>registered 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) or (2) of that section then, if—

- (a) the [<sup>F15</sup>registered 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 [<sup>F15</sup>registered owner] paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

### Textual Amendments

- F15** Words in s. 160 substituted (21.11.2008) by [The Merchant Shipping \(Oil Pollution\) \(Bunkers Convention\) Regulations 2006 \(S.I. 2006/1244\)](#), regs. 1(2), 13 (with reg. 1(5))

### Modifications etc. (not altering text)

- C4** s. 160 extended (with modifications) to Anguilla (30.11.1997) by S.I. 1997/2580, art. 2, Sch.
- s. 160 extended (with modifications) to Bermuda (30.11.1997) by S.I. 1997/2581, art. 2, Sch.
- s. 160 extended (with modifications) to the British Antarctic Territory (30.11.1997) by S.I. 1997/2582, art. 2, Sch.
- s. 160 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by S.I. 1997/2583, art. 2, Sch.
- s. 160 extended (with modifications) to the Falkland Islands (30.11.1997) by S.I. 1997/2584, art. 2, Sch.
- s. 160 extended (with modifications) to the Pitcairn, Henderson, Ducie, and Oneo Islands (30.11.1997) by S.I. 1997/2585, arts. 2, 3, Sch.
- s. 160 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by S.I. 1997/2587, art. 2, Sch.
- s. 160 extended (with modifications) to the South Georgia and the South Sandwich Islands (30.11.1997) by S.I. 1997/2588, art. 2, Sch.
- s. 160 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by S.I. 1997/2589, art. 2, Sch.
- s. 160 extended (with modifications) to the Virgin Islands (30.11.1997) by S.I. 1997/2590, art. 2, Sch.
- S. 160 extended (with modifications) to Jersey (1.12.1997) by S.I. 1997/2598, arts. 2, 3, Sch. 1
- S. 160 extended (with modifications) to Guernsey (11.3.1998) by S.I. 1998/260, arts. 2, 3, Sch. 1
- S. 160 extended (with modifications) to the Cayman Islands (20.5.1998) by S.I. 1998/1261, art. 2, Sch.



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- S. 160 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), art. 2, [Sch.](#)
- S. 160 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), art. 2, [Sch.](#)

## 161 Establishment of limitation fund outside United Kingdom.

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.

### Modifications etc. (not altering text)

- C5**
- s. 161 extended (with modifications) to Anguilla (30.11.1997) by [S.I. 1997/2580](#), art. 2, [Sch.](#)
  - s. 161 extended (with modifications) to Bermuda (30.11.1997) by [S.I. 1997/2581](#), art. 2, [Sch.](#)
  - s. 161 extended (with modifications) to the British Antarctic Territory (30.11.1997) by [S.I. 1997/2582](#), art. 2, [Sch.](#)
  - s. 161 extended (with modifications) to the British Indian Ocean Territory (30.11.1997) by [S.I. 1997/2583](#), art. 2, [Sch.](#)
  - s. 161 extended (with modifications) to the Falkland Islands (30.11.1997) by [S.I. 1997/2584](#), art. 2, [Sch.](#)
  - s. 161 extended (with modifications) to the Pitcairn, Henderson, Ducie and Oneo Islands (30.11.1997) by [S.I. 1997/2585](#), arts. 2, 3, [Sch.](#)
  - s. 161 extended (with modifications) to the Sovereign Base Areas of Akrotiri and Dhekelia (30.11.1997) by [S.I. 1997/2587](#), art. 2, [Sch.](#)
  - s. 161 extended (with modifications) to the South Georgia and South Sandwich Islands (30.11.1997) by [S.I. 1997/2588](#), art. 2, [Sch.](#)
  - s. 161 extended (with modifications) to the Turks and Caicos Islands (30.11.1997) by [S.I. 1997/2589](#), art. 2, [Sch.](#)
  - s. 161 extended (with modifications) to the Virgin Islands (30.11.1997) by [S.I. 1997/2590](#), art. 2, [Sch.](#)
  - S. 161 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, [Sch. 1](#)
  - S. 161 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, [Sch. 1](#)
  - S. 161 extended (with modifications) to the Cayman Islands (20.5.1998) by [S.I. 1998/1261](#), art. 2, [Sch.](#)
  - S. 161 extended (with modifications) to Montserrat (20.5.1998) by [S.I. 1998/1262](#), art. 2, [Sch.](#)
  - S. 161 extended (with modifications) to Saint Helena (20.5.1998) by [S.I. 1998/1263](#), art. 2, [Sch.](#)

**Status:**

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