

Status: Point in time view as at 01/07/2009.

Changes to legislation: Merchant Shipping Act 1995, Cross Heading: Liability is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 4

PREVENTION OF OIL POLLUTION: TRANSITORY PROVISIONS

CHAPTER III

LIABILITY FOR OIL POLLUTION

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.
- (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.

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- (5) The ^{M1}Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the ^{M2}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—
- (a) for any damage caused outside the ship 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 minimising any damage so caused in the territory of the United Kingdom by contamination resulting from the discharge or escape; and
 - (c) 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—
- (a) 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
 - (b) 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—
- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, 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.
- (4) The ^{M3}Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the ^{M4}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.

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(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.

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

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- (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.

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