



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART VI

#### PREVENTION OF POLLUTION

#### CHAPTER II

#### OIL POLLUTION

#### *Shipping casualties*

#### **138 Right to recover in respect of unreasonable loss or damage**

- (1) If any action duly taken by a person in pursuance of a direction given to him under section 137, or any action taken under section 137(4) or (5)—
  - (a) was not reasonably necessary to prevent or reduce oil pollution, or risk of oil pollution; or
  - (b) was such that the good it did or was likely to do was disproportionately less than the expense incurred, or damage suffered, as a result of the action,a person incurring expense or suffering damage as a result of, or by himself taking, the action shall be entitled to recover compensation from the Secretary of State.
- (2) In considering whether subsection (1) above applies, account shall be taken of—
  - (a) the extent and risk of oil pollution if the action had not been taken;
  - (b) the likelihood of the action being effective; and
  - (c) the extent of the damage which has been caused by the action.
- (3) Any reference in this section to the taking of any action includes a reference to a compliance with a direction not to take some specified action.
- (4) The Admiralty jurisdiction of the High Court and of the Court of Session shall include jurisdiction to hear and determine any claim arising under this section.