

## SCHEDULES

### SCHEDULE 1

Section 1(4).

#### FURTHER PROVISIONS RELATING TO CONSTITUTION ETC OF PILOTAGE COMMISSION

##### *Tenure of members*

- 1 Subject to paragraphs 2 to 4 of this Schedule, a person shall hold and vacate office as a Commissioner or the Chairman in accordance with the terms of the instrument appointing him to that office.
- 2 A person shall not be appointed as a Commissioner and a Commissioner shall not be appointed as the Chairman for a term of more than three years ; but a person may be reappointed as a Commissioner and a Commissioner may be reappointed as the Chairman on or after the date on which he ceases to be a Commissioner or, as the case may be, ceases to be the Chairman.
- 3 (1) A person may at any time resign his office as a Commissioner or the Chairman by giving to the Secretary of State a notice in writing signed by that person and stating that he resigns that office.
- (2) If the Chairman ceases to be a Commissioner he shall cease to be the Chairman.
- 4 If the Secretary of State is satisfied that a Commissioner—
- (a) has been absent from the meetings of the Commission for a period longer than six consecutive months without the permission of the Commission ; or
  - (b) is incapacitated by physical or mental illness ; or
  - (c) is otherwise unable or unfit to discharge the functions of a Commissioner,
- the Secretary of State may declare his office as a Commissioner to be vacant and shall notify the declaration in such manner as the Secretary of State thinks fit; and thereupon the office shall become vacant

##### *Remuneration of members*

- 5 The Commission shall pay to each Commissioner such remuneration and allowances as the Secretary of State may determine with the consent of the Minister for the Civil Service.
- 6 Where a person ceases to be a Commissioner otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may with the consent of the Minister for the Civil Service direct the Commission to make to that person a payment of such amount as the Secretary of State may determine with the consent of the said Minister ; and it shall be the duty of the Commission to comply with the direction.

*Proceedings*

- 7       The quorum of the Commission and the arrangements relating to meetings of the Commission shall be such as the Commission may determine.
- 8       (1) A Commissioner who is in any way directly or indirectly interested in a contract made or proposed to be made by the Commission, or in any other matter whatsoever which falls to be considered by the Commission, shall disclose the nature of his interest at a meeting of the Commission and the disclosure shall be recorded in the minutes of the meeting; and the Commissioner shall not—
- (a) in the case of a contract, take part in any deliberation or decision of the Commission with respect to the contract; and
- (b) in the case of any other matter, take part in any decision of the Commission with respect to the matter if the Commission decides that the interest in question might affect prejudicially the Commissioner's consideration of the matter.
- (2) A notice given by a Commissioner at a meeting of the Commission to the effect that he is a member or employee of a specified company or firm and is to be regarded as interested in any contract which is made after the date of the notice with the company or firm shall, for the purposes of the preceding sub-paragraph, be a sufficient disclosure of his interest in relation to any contract so made.
- (3) A Commissioner need not attend in person at a meeting of the Commission in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at such a meeting.
- 9       The validity of any proceedings of the Commission shall not be affected by any vacancy among the Commissioners or by any defect in the appointment of a Commissioner.

*Staff*

- 10       The Commission may employ such persons as it considers are needed to assist the Commission in the performance of its functions and may pay to them such remuneration and allowances as the Commission considers appropriate.
- 11       The Commission may—
- (a) pay, to or in respect of persons formerly employed by the Commission, pensions, allowances or gratuities of such amounts as the Commission may determine ;
- (b) make such payments towards the provision of any of the said benefits as the Commission may determine;
- (c) maintain such schemes as the Commission may determine, whether contributory or not, for the payment of any of the said benefits.
- 12       If a person employed by the Commission becomes a Commissioner and was by reference to his employment by the Commission a participant in a pension scheme maintained by the Commission in pursuance of the preceding paragraph, the Commission may determine that his service as a Commissioner shall be treated for the purposes of the scheme as service as an employee of the Commission.

*Instruments*

- 13 The fixing of the common seal of the Commission shall be authenticated by the signature of the Chairman or of another Commissioner authorised by the Commission to authenticate it.
- 14 A document purporting to be duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

*Interpretation*

- 15 In the preceding provisions of this Schedule " the Chairman " and " a Commissioner " mean respectively the chairman of the Commission and a member of the Commission.

## SCHEDULE 2

Section 13(1).

## MISCELLANEOUS AMENDMENTS OF PILOTAGE ACT 1913

- 1 In paragraph (h) of section 7(1) (which enables a pilotage order to provide that pilotage shall become or cease to be compulsory in specified areas subject to provision being also made for the payment of compensation to the pilots concerned in certain cases where pilotage ceases to be compulsory) for the words from the beginning to " also made " there shall be substituted the words " make provision as to the circumstances in which pilotage in a pilotage district is to be compulsory, subject to provision being also made, in a case where pilotage ceases to be compulsory in connection with the rearrangement of the district, ".
- 2 Section 8(2) (which relates to pilotage districts and authorities as they were constituted at the passing of the Pilotage Act 1913 and is spent) shall cease to have effect.
- 3 Section 9 (which provides for the appointment of a committee to give advice to the Secretary of State about the performance of his functions under the Pilotage Act 1913) shall cease to have effect
- 4 Section 10(1) (which relates to areas in which pilotage was and was not compulsory at the passing of the Pilotage Act 1913 and is spent) shall cease to have effect.
- 5 (1) In paragraphs (k), (l), (m) and (p) of section 17(1) (which among other things provide for byelaws relating to pilotage certificates for masters and mates) before the words " mates " and " mate " wherever they occur there shall be inserted the word " first ".
- (2) In section 17 (which authorises a pilotage authority to make byelaws for the purposes mentioned in subsection (1) of that section) after subsection (3) there shall be inserted the following subsection—
- “(4) A byelaw may make different provision for different circumstances.”
- 6 In section 18 (of which paragraphs (a) to (c) specify the persons who may make objections to or proposals for a byelaw relating to a port) at the end of paragraph (c) there shall be inserted the words “or
- (d) the Pilotage Commission;”.

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- 7 In section 20(4) (which penalises a person who fails to return a pilot's licence as required by that section) after the word " fails " mere shall be inserted the words " without reasonable excuse ".
- 8 (1) In section 23(1) (which provides for the grant of pilotage certificates to masters and mates of ships except in the cases mentioned in the proviso)—
- (a) before the word " mate " wherever it occurs there shall be inserted the word " first ";
  - (b) in paragraph (a) of the proviso (which prohibits the grant of a pilotage certificate to a person who is not a British subject except in special cases) for the words " except in the cases for which special provision is made by this Act" there shall be substituted the words " or a national of a member State of the Economic Community other than the United Kingdom and the ship is registered under the law of a member State of the Economic Community "; and
  - (c) after paragraph (b) of the proviso there shall be inserted the words “; and
    - (c) In any district where a byelaw is in force prohibiting the grant of a pilotage certificate in respect of a vessel of a description specified in the byelaws, the pilotage authority shall not grant a certificate in respect of such a vessel ”;
 but nothing in paragraph (b) of this sub-paragraph affects the validity or prevents the renewal of any pilotage certificate which, immediately before the day when that paragraph comes into force, is in force in respect of a ship which is not registered under the law of a member State of the Economic Community.
- (2) In section 23(3) (which provides that a pilotage certificate shall not be in force for more than one year but may be renewed annually) after the word " may " there shall be inserted the words " if held by the master or first mate of a ship ".
- (3) In section 23(4) and (5) (which refer to pilotage certificates for masters and mates and for more than one ship of substantially the same class) before the word " mate " wherever it occurs there shall be inserted the word " first " and after the word " class " there shall be inserted the words " and registered as mentioned in paragraph (a) in subsection (1) of this section. ".
- 9 Section 24 (which specifies the special cases mentioned in subparagraph (1) of the preceding paragraph) shall cease to have effect.
- 10 (1) In section 27(1)(a) (which refers to a pilotage certificate for a master or mate) before the word " mate " there shall be inserted the word " first ".
- (2) In section 27 (which provides for complaints to the Secretary of State about a pilotage authority's conduct in connection with pilots' licences and pilotage certificates and examinations for them) after subsection (1) there shall be inserted the following subsection—
- “(1A) The Secretary of State may—
- (a) before he considers a complaint as required by the preceding subsection, ask the Pilotage Commission for its advice on the complaint; and
  - (b) when considering the complaint as so required, have regard to the Commission's advice on the complaint.”
- 11 (1) In section 30(2) (which relates to dues payable in a case where an unlicensed pilot is superseded by a licensed pilot) for the words from " a proportionate " to " of the

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licensed pilot" there shall be substituted the words " an appropriate proportion of the pilotage dues payable in respect of the ship " and the words " to the licensed pilot and " shall be omitted.

- (2) In section 30(3) (which penalises a pilot not licensed for a district if he pilots or attempts to pilot a ship in the district after a licensed pilot for the district has offered to pilot the ship) for the word " after " there shall be substituted the words " when he knows that ".
- 12 In section 31 (which relates to the furnishing of information by the master to the pilot of a ship about her draught, length and beam and provides that a master who refuses to comply with a request for the information or makes or is party to the making of a false statement in answer to such a request shall be liable to a fine not exceeding £50)—
- (a) after the word " beam" in subsection (1) there shall be inserted the words " and to provide him with such other information relating to the ship or its cargo as the pilot specifies and is necessary to enable him to carry out his duties as the pilot of the ship ";
- (b) for subsection (2) there shall be substituted the following subsections—
- “(2) It shall be the duty of the master of a ship to bring to the notice of each licensed pilot who pilots the ship any defects in, and any matter peculiar to, the ship and its machinery and equipment of which the master knows and which might affect materially the navigation of the ship.
- (3) The master of a ship who—
- (a) refuses to comply with a request made to him in pursuance of subsection (1) of this section ; or
- (b) makes a statement which he knows is false, or recklessly makes a statement which is false, in answer to such a request or is privy to the making by another person in answer to such a request of a statement which the master knows is false ; or
- (c) fails without reasonable excuse to perform the duty imposed on him by the preceding subsection,
- shall be guilty of an offence and liable to a fine not exceeding one thousand pounds in the case of an offence under paragraph (b) of this subsection and five hundred pounds in any other case.”
- 13 (1) In section 32(1) (which provides that a ship while being moved within a harbour in a pilotage district shall, except in certain cases, be deemed to be a ship navigating in a pilotage district) for the words " a ship navigating " there shall be substituted the words " being navigated ".
- (2) Section 32(2) (which provides that a ship which is navigating in a closed dock or other work in a pilotage district is deemed to be in a district where pilotage is not compulsory) shall cease to have effect.
- (3) Without prejudice to the generality of subsection (2) of section 52 of this Act, an order in pursuance of that subsection which brings into force the preceding subparagraph or Schedule 7 to this Act so far as that Schedule relates to section 32(2) may provide that it shall come into force in relation only to such pilotage districts as are specified in the order.

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- 14 Section 33(2) (under which a licensed pilot is required to produce, to a person employing him who requests him to do so, his copies of the Pilotage Act 1913 and of the pilotage order and any byelaws in force in the pilotage district) shall cease to have effect
- 15 In section 35 (under which a pilot who in pursuance of byelaws under the Pilotage Act 1913 has given a bond, of which the penalty must not exceed £100, shall not be liable for neglect or lack of skill beyond the penalty of the bond and the amount of his pilotage dues)—
- (a) for subsection (1) there shall be substituted the following subsection—
- “(1) A licensed pilot, a person authorised to act as the assistant of a licensed pilot by the authority who licensed the pilot and the pilotage authority who employ a licensed pilot or such an assistant shall not be liable—
- (a) in the case of a pilot or assistant, for neglect or want of skill; and
- (b) in the case of a pilotage authority, for neglect or want of skill by the pilot or assistant or by the authority in employing the pilot or assistant,
- beyond the amount of one hundred pounds and the amount of the pilotage dues in respect of the voyage during which the liability arose.”
- (b) subsection (2) and in subsection (3) the words "his" and " pilot's " shall be omitted ; and
- (c) in subsection (3) after the word " pilot" where it first occurs and the words " by the pilot" and the words " from the pilot" there shall be inserted the words " , assistant or pilotage authority ".
- 16 In section 36(2) (which penalises a licensed pilot who refuses to produce his licence in accordance with that section) after the word " refuses" there shall be inserted the words " without reasonable excuse ".
- 17 In section 39—
- (a) in subsection (1) (which requires a pilot boat to carry the marks mentioned in paragraph (a), to be painted in the colours mentioned in paragraph (b) and to display the flag described in paragraph (c)) paragraphs (a) and (b) shall be omitted; and
- (b) in subsection (2) (which provides for a fine for failure to comply with subsection (1)) the words "that the pilot boat possesses all the above characteristics and " and the words from " and also " to " concealed " shall be omitted.
- 18 In section 42 (which among other things penalises the master of a ship on which a pilot flag is displayed when no authorised pilot is on board) after the words " shall, unless " there shall be inserted the words " in the case of a pilot flag he proves that he took all reasonable precautions and exercised all due diligence to avoid displaying the flag and ".
- 19 In section 43(3) (which penalises a master who fails to display a pilot signal as required by that section) after the word " fails " there shall be inserted the words " without reasonable excuse ".
- 20 (1) In section 44(2) (which requires a master of a ship who accepts the services of a pilot to facilitate his getting on board the ship) for the words " getting on board "

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there shall be substituted the words " and any assistant of his getting on board and subsequently leaving ".

- (2) In section 44(3) (which provides that a master who fails to comply with the provisions of that section shall be liable to a fine not exceeding double the amount of the dues that could be demanded for the conduct of the ship) after the word " fails " there shall be inserted the words " without reasonable excuse " , after the word " liable " there shall be inserted the words " on summary conviction " and for the words " could be demanded for the conduct of the ship " there shall be substituted the words " (disregarding any increase in the dues attributable to failure to comply with the requirements of byelaws in force in the district about requests for pilots) are payable in respect of the ship or would have been so payable if he had complied with those provisions or five hundred pounds, whichever is the greater ".
- 21 In section 45(3) (which penalises the master of a ship if he misuses or permits another person to misuse a pilot signal) after the word " If " there shall be inserted the words " without reasonable excuse ".
- 22 In section 46 (which provides that a pilot of a ship who through breach or neglect of duty or through drunkenness endangers the ship or persons on the ship shall be guilty of a misdemeanour) for the words from " in respect of each offence " onwards there shall be substituted the words "be guilty of an offence and liable—
- (i) on summary conviction, to imprisonment for a term not exceeding three months or a fine of an amount not exceeding one thousand pounds or both ;
  - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.”.
- 23 In section 48(1) (under paragraph (a) of which it is an offence, punishable with a fine not exceeding one hundred pounds, for a licensed pilot to keep licensed premises or to sell liquor, tobacco or tea and under paragraph (d) of which it is an offence so punishable for a licensed pilot to act as a pilot whilst suspended and under paragraph (g) of which it is an offence so punishable for a licensed pilot to refuse or delay, when not prevented by illness or other reasonable cause, to pilot a ship which he is properly requested to pilot),—
- (a) paragraph (a) shall be omitted ;
  - (b) for the word " whilst" in paragraph (d) there shall be substituted the words " when he knows he is " ; and
  - (c) in paragraph (g) for the words " when not prevented by illness or other" there shall be substituted the word " without ".
- 24 In section 50 (which penalises a pilot who demands or receives, and a master who offers or pays, dues at any other rates, whether greater or less, than the authorised rates) for the words from " dues " to " demanded " there shall be substituted the words " pilotage dues of amounts which he knows are greater or less than the amounts authorised ".
- 25 In section 51 (which provides that if a ship with a licensed pilot on board leads another ship which has no such pilot, the pilot shall be entitled to the same pilotage rate for the other ship as if he had piloted it) for the words from " pilot so leading " to " as if he" there shall be substituted the words " same pilotage dues shall be payable in respect of the last-mentioned ship as if the pilot ".
- 26 Section 56 (which provides that expenditure under the Pilotage Act 1913 out of money provided by Parliament must not exceed £6,000 a year), section 58 (which

provides for the apportionment of the income of pilotage authorities in cases which no longer arise) and section 59 (which contains savings which are no longer required) shall cease to have effect.

- 27 In section 61 (which relates to the extent and application of the Pilotage Act 1913) the reference to that Act shall be construed as including the provisions of this Act relating to pilotage except paragraph 2 of Schedule 5.

## SCHEDULE 3

Sections 14, 15, 16, 49(4), 51(2).

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

#### PART I

##### TEXT OF 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 him 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 ;
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 ;

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 the 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 onshore 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 ;

## *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.
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. The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.

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2. The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, shall lie with the claimant.
3. Fault or neglect of the carrier or of his servants or agents acting within the scope of their employment shall be presumed, unless the contrary is proved, if the death of or personal injury to the passenger or the loss of or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion, or fire, or defect in the ship. In respect of loss of or damage to other luggage, such fault or neglect shall be presumed, unless the contrary is proved, irrespective of the nature of the incident which caused the loss or damage. In all other cases the burden of proving fault or neglect shall lie with the claimant.

#### *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 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.

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#### ARTICLE 7

##### *Limit of liability for personal injury*

1. The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed 700,000 francs per carriage. 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. Notwithstanding paragraph 1 of this Article, the national law of any State Party to this Convention may fix, as far as carriers who are nationals of such State are concerned, a higher per capita limit of liability.

#### ARTICLE 8

##### *Limit of liability for loss of or damage to luggage*

1. The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 12,500 francs 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 50,000 francs 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 of this Article shall in no case exceed 18,000 francs 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 1,750 francs in the case of damage to a vehicle and not exceeding 200 francs 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

##### *Monetary unit and conversion*

1. The franc mentioned in this Convention shall be deemed to refer to a unit consisting of 65.5 milligrams of gold of millesimal fineness 900.
2. The amounts referred to in Articles 7 and 8 shall be converted into the national currency of the State of the court seized of the case on the basis of the official value of that currency, by reference to the unit defined in paragraph 1 of this Article, on the date of the judgment or the date agreed upon by the parties.

#### 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.

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### *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.

### *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.

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#### 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 redelivery 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.
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 of suspension and interruption of limitation periods, but in no case shall an action under this Convention be brought after the expiration of a period of three years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later.
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 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:

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- (a) the court of the place of permanent residence or principal place of business of the defendant, or
  - (b) the court of the place of departure or that of the destination according to the contract of carriage, or
  - (c) a 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) a 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. 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 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 his luggage, purporting to relieve the carrier of his liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Convention except as provided in paragraph 4 of Article 8, and any such provision purporting to shift the burden of proof which rests on the carrier, or having the effect of restricting the option specified in paragraph 1 of Article 17, 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.

#### *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
- (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.

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*Status: This is the original version (as it was originally enacted).*

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## ARTICLE 21

### *Commercial carriage by public authorities*

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

## 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 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 Law Reform (Miscellaneous Provisions Act (Northern Ireland) 1948.
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 the limit specified in that paragraph at the passing of this Act or, if paragraph 1 of Part III of this Schedule has come into force, specified in paragraph 1 of article 7 as amended by paragraph 1 of that Part).
5. The values which in pursuance of article 9 shall be considered as the official values in the United Kingdom of the amounts in francs for the time being specified in articles 7 and 8 shall be such amounts in sterling as the Secretary of State may from time to time by order specify.
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.
7. Article 16 shall apply to an arbitration as it applies to an action ; and section 27(3) and (4) of the Limitation Act 1939 and section 72(2) and (3) of the Statute of Limitation (Northern Ireland) 1958 (which determine when an arbitration is deemed to commence) shall apply for the purposes of article 16 as they apply for the purposes of those Acts
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

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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.
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 £500.

*Application of ss. 502 and 503 of Merchant Shipping Act 1894 and sections 17 and 18 of this Act*

12. Nothing in section 502 of the Merchant Shipping Act 1894 or section 18 of this Act (which among other things limit 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.
13. It is hereby declared that nothing in the Convention affects the operation of section 503 of the Merchant Shipping Act 1894 or section 17 of this Act (which limit a shipowner's liability in certain cases of loss of life, injury or damage).

### PART III

MODIFICATIONS OF PARTS I AND II IN CONSEQUENCE  
OF PROTOCOL OF 19TH NOVEMBER 1976

1. In Part I of this Schedule, in article 7 of the Convention, for the words " 700,000 francs " or any other words which, by virtue of paragraph 4 of Part II of this Schedule, are specified in that article in the place of those words there shall be substituted the words "46,666 units of account".
2. In the said Part I, in article 8 of the Convention, for the word "francs" wherever it occurs there shall be substituted the words units of account and for the figures

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"12,500", "50,000", " 18,000 ", " 1,750 " and " 200 " there shall be substituted respectively the figures "833", 3,333 ", " 1,200 ", " 117 " and " 13 ".

3. In the said Part I for article 9 there shall be substituted the following—

*“ARTICLE 9*

*Unit of account and conversion*

The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 7 and 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 on the date of the judgment or the date agreed upon by the Parties.”

4. In Part II of this Schedule for paragraph 5 there shall be substituted the following—

“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 the preceding sub-paragraph for a particular day ; or
- (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.”

## SCHEDULE 4

Sections 17, 18, 19, 49, 51(2).

### CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976

#### PART I

##### TEXT OF CONVENTION

#### CHAPTER I

##### THE RIGHT OF LIMITATION

##### *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 connexion 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 connexion 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;

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- (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connexion 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 minimize loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.
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:

- (a) claims for salvage or contribution 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.

### 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.

### 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.

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## CHAPTER II

### LIMITS OF LIABILITY

#### ARTICLE 6

##### *The general limits*

1. 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) 333,000 Units of Account for a ship with a tonnage not exceeding 500 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 501 to 3,000 tons, 500 Units of of Account;
      - for each ton from 3,001 to 30,000 tons, 333 Units of Account;
      - for each ton from 30,001 to 70,000 tons, 250 Units of Account, and
      - for each ton in excess of 70,000 tons, 167 Units of Account,
  - (b) in respect of any other claims,
    - (i) 167,000 Units of Account for a ship with a tonnage not exceeding 500 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 501 to 30,000 tons, 167 Units of Account;
      - for each ton from 30,001 to 70,000 tons, 125 Units of Account; and
      - for each ton in excess of 70,000 tons, 83 Units of Account.
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).
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.

#### ARTICLE 7

##### *The limit for passenger claims*

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 46,666 Units of Account multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate, but not exceeding 25 million Units of Account.
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:

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- (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.

#### ARTICLE 8

##### *Unit of Account*

1. 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.

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## CHAPTER III

### THE LIMITATION FUND

#### 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

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*

This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.

### **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.

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*Right to limit liability*

- 2 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.

*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.
- (3) If immediately before the coming into force of section 17 of this Act an order is in force under section 2(6) of the Merchant Shipping (Liability of Shipowners and Others) Act 1958 (which contains provisions corresponding to those of this paragraph) that order shall have effect as if made under this paragraph.

*Claims excluded from limitation*

- 4 (1) The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 1 of the Merchant Shipping (Oil Pollution) Act 1971.
- (2) 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 Nuclear Installations Act 1965.

*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 (a)(i) referred to 166,667 Units of Account; and
  - (b) paragraph (b)(i) referred to 83,333 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.

*Limit for passenger claims*

- 6 (1) In the case of a passenger steamer within the meaning of Part III of the Merchant Shipping Act 1894 the ship's certificate mentioned in paragraph 1 of article 7 shall be the passenger steamer's certificate issued under section 274 of that Act.

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- (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 Fatal Accidents Act 1976, the Fatal Accidents (Northern Ireland) Order 1977 or the Damages (Scotland) Act 1976.

#### *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 the preceding sub-paragraph 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 from time to time, 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) 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—

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- (a) in relation to England and Wales, references to the High Court;
- (b) in relation to Scotland, references to the Court of Session;
- (c) in relation to Northern Ireland, references to the High Court of Justice in Northern Ireland.

*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 "*

- 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 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.

SCHEDULE 5

Section 19.

LIABILITY OF SHIPOWNERS AND SALVORS: CONSEQUENTIAL AMENDMENTS

*The Merchant Shipping (Liability of Shipowners and Others) Act 1900*

- 1      (1) In section 2(1) of the Merchant Shipping (Liability of Shipowners and Others) Act 1900 for the reference to the actual fault or privity of the owners or authority there shall be substituted a reference to any such personal act or omission of the owners or authority as is mentioned in article 4 of the Convention in Part I of Schedule 4 to this Act.
- (2) The limit of liability under that section shall be ascertained by applying to the ship mentioned in subsection (1) the method of calculation specified in paragraph 1(b) of article 6 of the Convention read with paragraph 5(1) and (2) of Part II of that Schedule.
- (3) Articles 11 and 12 of the Convention in Part I of that Schedule and paragraphs 8 and 9 of Part U of that Schedule shall apply for the purposes of that section.

*The Pilotage Authorities (Limitation of Liability) Act 1936*

- 2      (1) In section 1(1) of the Pilotage Authorities (Limitation of Liability) Act 1936 for the reference to the actual fault or privity of the pilotage authority there shall be substituted a reference to any such personal act or omission of the authority as is mentioned in article 4 of the Convention in Part I of Schedule 4 to this Act
- (2) In section 4 of that Act for the words from "by or under" to " subsequent Acts " there shall be substituted the words " under section 17 or 18 of the Merchant Shipping Act 1979 ".

*Status: This is the original version (as it was originally enacted).*

*The Crown Proceedings Act 1947*

3 For section 5 of the Crown Proceedings Act 1947, including that Act as it applies in Northern Ireland, there shall be substituted—

“5 (1) The provisions of sections 17 and 18 of the Merchant Shipping Act 1979 and of Schedule 4 to that Act (liability of shipowners and salvors) shall apply in relation to His Majesty's ships as they apply in relation to other ships.

(2) In this section " ships " has the same meaning as in those provisions.”

*The Hovercraft Act 1968*

4 In section 1(1)(i) of the Hovercraft Act 1968 for the words " Part VIII of the Merchant Shipping Act 1894 ", " that Part" and " the said Part VIII" there shall be substituted respectively the words sections 17 and 18 of the Merchant Shipping Act 1979 , " those sections" and " the said sections of the Merchant Shipping Act 1979 ".

*The Carriage of Goods by Sea Act 1971*

5 In section 6(4) of the Carriage of Goods by Sea Act 1971 for the words from " section 502 " to " 1958 " there shall be substituted the words section 18 of the Merchant Shipping Act 1979 (which".

*The Merchant Shipping (Oil Pollution) Act 1971*

6 (1) In sections 5(4)(b) and 7(b) of the Merchant Shipping (Oil Pollution) Act 1971 for the words " the Merchant Shipping (Liability of Shipowners and Others) Act 1958 " there shall be substituted the words the Merchant Shipping Act 1979.

(2) For section 15(2) of that Act there shall be substituted—

“(2) For the purposes of section 17 of the Merchant Shipping Act 1979 (limitation of liability) any liability incurred under this section shall be deemed to be a liability in respect of such damage to property as is mentioned in paragraph 1(a) of article 2 of the Convention in Part I of Schedule 4 to that Act.”

SCHEDULE 6

Section 43.

ALTERATION OF PENALTIES

**PART I**

MAXIMUM FINE OF £50 ON SUMMARY CONVICTION

<i>Enactment</i>	<i>Subject matter</i>
Merchant Shipping Act 1894 (c. 60)—	
section 111(4)	Engaging of seamen by unauthorised person.
section 112(2)	Receiving remuneration from seamen for engagement.

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*Status: This is the original version (as it was originally enacted).*

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<i>Enactment</i>	<i>Subject matter</i>
section 280(2)	Surrender of passenger steamer's certificate.
section 281(2)	Display of passenger steamer's certificate.
section 287	Miscellaneous offences in connection with passenger steamers.
section 373(4)	Use of unregistered fishing boat.
section 385(5)	Failure to record or report occurrences on fishing boats.
section 417(4)	Transfer of fish from fishing boats to collecting vessels.
section 543(2)	Failure by manufacturer to mark information on anchor.
section 722(2)	Use or supply of unauthorised forms.
<a href="#">Merchant Shipping (International Labour Conventions) Act 1925 (c. 42)</a> —	
section 4	Employment in ships of persons under 18.
<a href="#">Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9)</a> —	
section 12(2)	Failure to return memorandum about life-saving appliances.
section 31(2)	Failure to give notice of Atlantic routes used by passenger line.
<a href="#">Merchant Shipping Act 1970 (c. 36)</a> —	
section 8(5), including section 8(5) as set out in Schedule 2	Delivery to seaman of account of wages.
section 78	Unauthorised persons on ship in port.
section 89(4)	Impeding arrest of deserter from foreign ship.

## PART II

### MAXIMUM FINE OF £200 ON SUMMARY CONVICTION

<i>Enactment</i>	<i>Subject matter</i>
<a href="#">Merchant Shipping Act 1894 (c. 60)</a> —	
section 7(5)	Marking of ships.
section 15(2)	Delivery up of ship's certificate of registry for purpose of navigation.
section 18(3)	Delivery up of ship's provisional certificate of registry to registrar.

*Status: This is the original version (as it was originally enacted).*

<i>Enactment</i>	<i>Subject matter</i>
section 20(4)	Delivery up of certificate on change of ownership of ship.
section 21(3)	Notice and delivery up of certificate on loss of ship or transfer to person not qualified to own British ship.
section 44(11)	Production of certificates on sale of ship to person not qualified to own British ship.
section 47(8)	Breach of rules as to name of ship.
section 59(3)	Registration of particulars of ship's managing owner or manager.
section 74(2)	Failure to hoist national colours.
section 536(1)	Unauthorised boarding of vessel which is wrecked or in distress.
section 726(3)	Failure to give information and assistance to surveyor of ship.
<b>Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9)—</b>	
section 27	Going to sea without approved signalling lamp.
section 29(2)	Form of steering orders.
<b>Merchant Shipping Act 1970 (c. 36)—</b>	
section 22(4) excluding paragraphs (a) and (b)	Master's failure to arrange for seamen to complain to proper officer about food.
section 23(3)	Master's failure to arrange for seamen to complain to proper officer about conditions on board.
section 47	Production of certificates of qualification.
section 51(4)	Employment in ships of persons under 18.
section 59	Failure to deliver certificate as required by section 52, 53, 54 or 56.
section 74	Handing over of documents on change of master.
paragraph 3 of Part I of Schedule 2	Production of certificates of qualification.
<b>Prevention of Oil Pollution Act 1971 (c. 60)—</b>	
section 10(5)	Restrictions on transfer of oil at night.
section 18(8) except so far as it relates to obstruction	Failure to comply with requirement to produce book or records or to certify true copy.

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*Status: This is the original version (as it was originally enacted).*

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### PART III

#### MAXIMUM FINE OF £500 ON SUMMARY CONVICTION

<i>Enactment</i>	<i>Subject matter</i>
<b>Merchant Shipping Act 1894 (c. 60)</b> —	
section 10(3)	False statement in certificate given by builder of ship.
section 518	Failure to deliver wreck or particulars of wreck to receiver.
section 519(2)	Retaining cargo washed up from wreck.
section 536(2)	Impeding assistance for a ship in distress or removing its cargo.
section 666(2)	Injuring lighthouses, lightships and similar equipment.
<b>Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9)</b> —	
section 24(3)	Failure to report danger to navigation.
<b>Merchant Shipping Act 1970 (c. 36)</b> —	
section 1(8)	Breach of provisions about crew agreements.
section 21(4)	Breach of regulations about food.
section 22(4)(a) and (b)	Retention or use of food which is unfit or of wrong quality.
section 24(2)	Inadequate medical stores.
section 68(6)	Destruction and mutilation of official log book.
section 70(4)	False statement to obtain British seaman's card.
section 86(2)	Going to sea without appropriate charts etc.
paragraph 4(2) of Part I of Schedule 2	Maximum period of duty for seamen employed in fishing vessels.
<b>Merchant Shipping (Oil Pollution) Act 1971 (c. 59)</b> —	
section 10(7)	Carrying and production of certificate in respect of insurance cover for oil pollution damage.
<b>Prevention of Oil Pollution Act 1971 (c. 60)</b> —	
section 18(8) so far as it relates to obstruction	Failure to comply with requirements to produce book or records or to certify true copy.

*Status: This is the original version (as it was originally enacted).*

## PART IV

### MAXIMUM FINE OF £1,000 ON SUMMARY CONVICTION

<i>Enactment</i>	<i>Subject matter</i>
<b>Merchant Shipping Act 1894 (c. 60)</b> —	
section 436(4)	Recording of ship's draught.
section 488(4)	Obstruction of survey of ship.
section 689(4)	Conveyance from abroad of offenders and witnesses.
<b>Merchant Shipping (Load Lines) Act 1967 (c. 27)</b> —	
section 5	Observance of marking requirements of ship.
<b>Merchant Shipping Act 1970 (c. 36)</b> —	
section 20(6)	Contravention of crew accommodation regulations.
section 43(5)	False statement to obtain certificate of competence.
section 48(2)	Going to sea with inadequate arrangements for translating orders to foreign crew.
section 50(2)	False statement to obtain special certificate of competence.
section 73(2)	Failure to report shipping casualty.
section 76(4)	Obstruction of inspections and surveys.
<b>Prevention of Oil Pollution Act 1971 (c. 60)</b> —	
section 11(3)	Failure to report discharge of oil into waters of harbour.
<b>Merchant Shipping Act 1974 (c. 43)</b> —	
section 3(5)	Unauthorised disclosure of information.
section 14(8)	Unauthorised disclosure of information.
paragraph 4(3) of Schedule 2	Obstruction of inspection or survey of foreign oil tanker.

## PART V

### FINE ON CONVICTION ON INDICTMENT AND MAXIMUM FINE OF £1,000 ON SUMMARY CONVICTION

<i>Enactment</i>	<i>Subject matter</i>
<b>Merchant Shipping Act 1894 (c. 60)</b> —	

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*Status: This is the original version (as it was originally enacted).*

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<i>Enactment</i>	<i>Subject matter</i>
section 285(5)	Safety equipment for passenger steamers.
section 286	Unauthorised weight on safety valve of passenger steamer.
section 413(2)	Fishing boat sailing without certificated skipper and second hand.
section 413(3)	Service or employment of uncertificated person as skipper or second hand of fishing boat.
section 430(1)	Provision of life-saving appliances for ships.
section 432(2)	Adjustment of compasses and provision of hose in ship.
section 433	Unauthorised weight on safety valve of steamship.
<a href="#">The Merchant Shipping Act 1906 (c. 48)</a> —	
section 16(2)	Passengers not to be carried on more than one deck below water line.
<a href="#">Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9)</a> —	
section 30(2)	Avoidance of danger from ice.
<a href="#">Merchant Shipping (Safety Convention) Act 1949 (c. 43)</a> —	
section 5(5)	Breach of rules for direction-finders.
section 6(3)	Breach of rules about radio navigational aids.
section 6(4)	Using unauthorised apparatus for signals to or from radio navigational aids.
section 12(3)(b)	Steamer other than passenger steamer going to sea without certificates.
section 12(6)	Compliance with conditions of exemption certificate.
section 19(2)	Compliance with rules about closing of openings in ship's hull.
section 21(3)	Misuse of distress signals.
section 23(3)	Breach of rules about carriage of dangerous goods.
section 24(1)	Failure to take precautions in loading grain to prevent it from shifting.
section 24(2)	Entering port with grain which was loaded without precautions to prevent it from shifting.
<a href="#">Merchant Shipping Act 1964 (c. 47)</a> —	

*Status: This is the original version (as it was originally enacted).*

<i>Enactment</i>	<i>Subject matter</i>
section 5(2)	Going to sea without safety construction certificate.
section 7(1)	Breach of cargo ship construction and survey rules.
<b>Merchant Shipping (Load Lines) Act 1967 (c. 27)—</b>	
section 3(2)	Breach of load line rules in respect of British ship.
section 4(4)	Taking or sending ship to sea with load line submerged.
section 9(3)	Going to sea without load line certificate.
section 13(3)	Breach of load line rules in respect of foreign ship.
section 24(4)	Breach of deck cargo regulations.
<b>Fishing Vessels (Safety Provisions) Act 1970 (c. 27)—</b>	
section 1(4)	Contravention of construction rules.
section 4(2)	Going to sea without certificates of compliance with construction and other rules.
<b>Merchant Shipping Act 1970 (c. 36)—</b>	
section 45	Going to sea undermanned.
section 46(1)	Unqualified person going to sea as qualified.

## PART VI

### MISCELLANEOUS PENALTIES ON SUMMARY CONVICTION

#### *Maximum fines of £50*

- 1 In section 373(5)(d) of the Merchant Shipping Act 1894 (which enables regulations relating to the registration of fishing boats to provide for fines for breaches of the regulations of up to £50 in some cases and £20 in others) for the words from " fines" to " pounds" there shall be substituted the words " fines not exceeding fifty pounds ".
- 2 In subsection (2) of section 77 of the Merchant Shipping Act 1906 (which provides that the master of a ship carrying cattlemen to the United Kingdom who fails to make a return of particulars of the cattlemen as required by that section shall be liable on summary conviction to a fine not exceeding £100 and that a cattleman who refuses to give information required for the purposes of a return under that section shall be liable on summary conviction to imprisonment for up to 3 months) for the words " one hundred pounds" there shall be substituted the words " fifty pounds " and for the words from " imprisonment" onwards there shall be substituted the words " such a fine ".

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- 3 In subsection (4) of section 6 of the Merchant Shipping Act 1970 (which provides that a person shall be liable to a fine of up to £50 if he acts in contravention of subsection (1) of that section and £20 if he acts in contravention of subsection (2) of that section) after the words " subsection (1) " there shall be inserted the words " or subsection (2) " and the words from " and if " onwards shall be omitted.
- 4 In sections 68(5), 69(5), 70(2), 71(2) and 72(4) of the Merchant Shipping Act 1970 (which relate respectively to official log books, lists of crews, British seamen's cards, discharge books and returns of births and deaths on ships and authorise regulations under the section in question to provide for maximum fines of £10 in the case of sections 70(2) and 71(2) and £20 in the case of sections 68(5), 69(5) and 72(4) for contraventions of the regulations) for the word " £10 " or, as the case may be, " £20 " there shall be substituted the word " £50 ".

*Maximum fines of £200 and £20 a day*

- 5 In subsection (2) of section 48 of the Merchant Shipping Act 1894 (which among other things provides that if default is made in registering an alteration of a ship or in registering a ship anew as required by that section the owner shall be liable to a fine of up to £100 and a further fine of up to £5 for each day during which the offence continues after conviction) for the words " one hundred pounds " there shall be substituted the words " two hundred pounds " and for the words " five pounds " there shall be substituted the words " twenty pounds ".
- 6 In subsections (2)(d) and (6A) of section 1 of the Merchant Shipping Act 1965 (which authorise tonnage regulations to provide for fines not exceeding £100 for the contraventions and failures there mentioned) for the words " one hundred pounds " in subsection (2)(d) and the word "£100" in subsection (6A) there shall be substituted the word " £200 ".
- 7 In Schedule 1 to the Merchant Shipping (Load Lines) Act 1967 (which among other things provides for a fine of up to £50 on summary conviction of an offence under section 281(3) of the Merchant Shipping Act 1894 of not posting up a passenger steamer's certificate) in column 3 of the entry relating to the said section 281(3) for the word " £50 " there shall be substituted the word " £200 ".
- 8 In sections 2(2), 3(4), 62(6) and 65(3) of the Merchant Shipping Act 1970 (which relate respectively to crew agreements, the discharge of seamen, the return of seamen left overseas and the property of deceased seamen and authorise regulations under the section in question to provide for maximum fines of £50 in the case of section 2(2) and £100 in other cases for contraventions of the regulations) for the word " £50 " or, as the case may be, " £100 " there shall be substituted the word " £200 ".
- 9 In section 77(1) of the Merchant Shipping Act 1970 (under which the punishment for stowing away is a fine not exceeding £100 or imprisonment not exceeding three months) for the words from "£100" onwards there shall be substituted the word " £200 ".

*Miscellaneous*

- 10 In section 667(3) of the Merchant Shipping Act 1894 (under which a person who fails to comply with a notice to extinguish or screen a light which may be mistaken for a lighthouse is guilty of a common nuisance and is also liable to a fine not exceeding £100) for the words from " a common nuisance " onwards there shall be

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- substituted the words " an offence and liable to a fine not exceeding one thousand pounds " .
- 11 In subsection (2) of section 723 of the Merchant Shipping Act 1894 (which provides that a person who fails to produce a log book or document which he is required to produce under that section or who refuses to allow the same to be inspected or copied or commits any other offence mentioned in that subsection shall be liable to a fine not exceeding £50 in some cases and £20 in others)—
- (a) for the words " or refuses to allow the same " there shall be substituted the words " that person shall be liable to a fine not exceeding two hundred pounds and if any person on being so required refuses to allow such a book or document " ; and
  - (b) for the words from " for each offence " onwards there shall be substituted the words " be liable to a fine not exceeding one thousand pounds " .
- 12 Subsection (4) of section 724 of the Merchant Shipping Act 1894 (which provides that a surveyor of ships who receives unauthorised remuneration in respect of the duties he performs under that Act shall be liable to a fine not exceeding £50) shall be omitted.
- 13 In section 76(3) of the Merchant Shipping Act 1906 (under which the master of a ship carrying passengers who fails to make a return of particulars of the passengers as required by that section or makes a false return and a passenger who refuses to give information required for such a return or gives false information is liable on summary conviction to a fine not exceeding £50 in some cases and £20 in others) for the words from "not exceeding" onwards there shall be substituted the words " not exceeding fifty pounds in the case of a failure or refusal and two hundred pounds in the case of a false return or false information " .
- 14 In subsection (5) of section 24 of the Merchant Shipping (Safety Convention) Act 1949 (under which a master of a ship carrying grain who fails to deliver to customs the notice required by that section or delivers such a notice which is false in a material particular is liable to a fine not exceeding £100) for the words " one hundred pounds " there shall be substituted the words " two hundred pounds in the case of a failure and five hundred pounds in the case of a false statement " .
- 15 In Schedule 1 to the Merchant Shipping (Load Lines) Act 1967 (under which any of the following offences, namely, an offence under section 283 of the Merchant Shipping Act 1894 of carrying passengers in excess, an offence under section 21 of the Merchant Shipping Act 1906 of not complying with provisions requiring a passenger steamer to be surveyed and to have a passenger steamer's certificate and an offence under section 12(3)(a) of the Merchant Shipping (Safety Convention) Act 1949 of going to sea without appropriate certificates, is punishable on summary conviction with a fine of up to £1,000 in some cases and £400 in others)—
- (a) in column 3 of the entry relating to the said section 283, for the word " £400 " there shall be substituted the word " £50,000 " ; and
  - (b) in column 3 of the entries relating to the said sections 21 and 12(3)(a), for the word " £400 " there shall be substituted the word " £1,000 " .
- 16 In subsection (8) of section 9 of the Prevention of Oil Pollution Act 1971 (under which a harbour authority is liable to a fine not exceeding £10 for each day on which it fails to comply with a direction to provide oil reception facilities) for the word " £10 " there shall be substituted the words " £500 and to a further fine not exceeding £50 " .

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- 17 In section 17(5) of the said Act of 1971 (which among other things provides for a fine of up to £500 on summary conviction of an offence of making a false entry in a record relating to oil) for the word "£500" in the third place where it occurs there shall be substituted the word " £1,000 ".
- 18 In subsection (6) of section 3 of the Merchant Shipping Act 1974 (under paragraph (a) of which a person who fails to provide information as required by that section is liable on summary conviction to a fine not exceeding £1,000 in some cases and £400 in others and under paragraph (b) of which a person who provides false information is so liable) for paragraph (i) there shall be substituted the words " (i) on summary conviction to a fine not exceeding £500 in the case of an offence under paragraph (a) of this subsection and not exceeding £1,000 in the case of an offence under paragraph (b) of this subsection, and ".
- 19 In subsection (9) of section 14 of the Merchant Shipping Act 1974 (under paragraph (a) of which a person who fails to provide information as required by that section is liable on summary conviction to a fine not exceeding £400 and under paragraph (b) of which a person who provides false information is so liable), for the word " £400 " there shall be substituted the words " £500 in the case of an offence under paragraph (a) of this subsection and not exceeding £1,000 in the case of an offence under paragraph (b) of this subsection ".
- 20 In paragraph 3(2) of Schedule 5 to the Merchant Shipping Act 1974 (under which a person who commits an offence created by regulations relating to submersible or supporting apparatus is liable on summary conviction to a fine not exceeding £1,000 in some cases and £400 in others unless the regulations prescribe a lower limit) for paragraph (a) there shall be substituted the words " (a) on summary conviction a fine not exceeding £1,000 ".

## PART VII

### OTHER PENALTIES

#### *The Merchant Shipping Act 1894*

- 1 At the end of section 66 of the Merchant Shipping Act 1894 as it has effect in Scotland (which among other things provides that a person who forges a document mentioned in that section shall be guilty of felony) there shall be inserted the words " and liable on conviction on indictment to imprisonment for not more than seven years ".
- 2 In section 73 of the Merchant Shipping Act 1894 (which among other things provides that if unauthorised colours are hoisted on board a vessel belonging to a British subject the master or owner of the vessel and the person who hoists the colours shall be guilty of an offence for which he is liable on conviction on indictment to a fine in some cases and to a fine of up to £500 in others or on summary conviction to a fine of up to £1,000 in some cases and £100 in others)—
- (a) in subsection (2) for the words from " incur a fine " onwards there shall be substituted the words " be liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds "; and
  - (b) subsections (4) and (5) shall be omitted.
- 3 In section 271 of the Merchant Shipping Act 1894 (which among other things provides that, except in certain cases, no ship shall proceed to sea or on any voyage

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or excursion with more than twelve passengers on board unless a certificate as to survey under Part III of that Act is in force in respect of the ship) after subsection (2) there shall be inserted the following subsection—

“(3) If a ship proceeds to sea or on any voyage or excursion when it is prohibited from doing so by subsection (1) of this section, the owner and the master of the ship shall each be guilty of an offence and liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds.”

4 Subsection (3) of section 360 of the Merchant Shipping Act 1894 (which provides that a person employed under Part III of that Act who demands or takes unauthorised remuneration for performing his duty under that Part shall for each offence be liable to a fine not exceeding £50) shall be omitted.

5 In section 419(2) of the Merchant Shipping Act 1894 (which provides that if an infringement of the collision regulations is caused by the wilful default of the master or owner of a ship he shall be guilty of a misdemeanour) for the words " guilty of a misdemeanour " there shall be substituted the words " liable, on conviction on indictment, to a fine and imprisonment for a term not exceeding two years or, on summary conviction.—

(a) to a fine not exceeding fifty thousand pounds and imprisonment for a term not exceeding six months in the case of an infringement of Rule 10(b)(i) of the regulations set out in Schedule 1 to the Collision Regulations and Distress Signals Order 1977 ; and

(b) to a fine not exceeding £1,000 in any other case ".

6 In subsection (3) of section 422 of the Merchant Shipping Act 1894 (which among other things provides that if a person in charge of a vessel involved in a collision with another vessel fails without reasonable cause to render assistance to the other vessel or persons on her as required by subsection (1)(a) of that section or to give the name of his vessel and certain other information to the person in charge of the other vessel as required by subsection (1)(b) of that section he shall be guilty of a misdemeanour) for the words " a misdemeanour, and " there shall be substituted the words “an offence and—

(a) in the case of a failure to comply with subsection (1)(a) of this section, liable on conviction on indictment to a fine and imprisonment for a term not exceeding two years and on summary conviction to a fine not exceeding fifty thousand pounds and imprisonment for a term not exceeding six months ; and

(b) in the case of a failure to comply with subsection (1)(b) of this section, liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding one thousand pounds,

and in either case”.

7 In subsection (2) of section 446 of the Merchant Shipping Act 1894 (which among other things provides that a person who sends dangerous goods by ship without marking the goods and giving notice about them as required by that section shall be liable to a fine not exceeding £100 or, if he shows that he was merely an agent in the shipment and was not aware that the goods were dangerous, then to a smaller fine)—

(a) for the words from " liable " to " shows that he " there shall be substituted the words " liable on conviction on indictment to a fine or on summary

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conviction to a fine not exceeding one thousand pounds ; but it shall be a defence to show that the accused "; and

(b) the words from " then " onwards shall be omitted.

8 In section 447 of the Merchant Shipping Act 1894 (under which, among other things, a person who sends dangerous goods by ship under a false description or with a false description of the sender is liable on conviction on indictment to a fine in some cases and to a fine of up to £500 in others) for the words from " liable " onwards there shall be substituted the words " liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds ".

9 In paragraph (a) of subsection (1) of section 680 of the Merchant Shipping Act 1894 (under which, except in certain cases, an offence under that Act, which is declared to be a misdemeanour is punishable on conviction on indictment by a fine or by imprisonment not exceeding two years or on summary conviction with imprisonment for a term not exceeding six months or with a fine not exceeding £1,000 in some cases and £100 in others)—

(a) for the words " or by imprisonment" there shall be substituted the words " and by imprisonment ";

(b) for the words from " or with a fine " onwards there shall be substituted the words " and with a fine not exceeding one thousand pounds ";

and in paragraph (b) of that subsection (under which an offence under that Act which is punishable by a fine not exceeding £100 can only be prosecuted summarily except in certain cases) for the words " one hundred pounds " there shall be substituted the words " one thousand pounds ".

10 In section 692(1) of the Merchant Shipping Act 1894 (which among other things provides that if a ship which is detained in pursuance of that section proceeds to sea before it is released the master and the owner of the ship and any other person who sends it to sea shall be liable to a fine not exceeding £200) for the words from " liable " onwards there shall be substituted the words " liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding fifty thousand pounds. ".

11 In section 692(2) of the Merchant Shipping Act 1894 (which among other things provides that the master and the owner of a ship which takes to sea an officer authorised to detain the ship or certain other officials shall be liable to a fine of which the maximum amount varies with the circumstances) for the words from " to a fine " onwards there shall be substituted the words " on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds ".

12 In section 696(2) of the Merchant Shipping Act 1894 (under which, among other things, a person who obstructs the service on the master of a ship of any document under that Act about the detention of ships as unseaworthy is liable to a fine not exceeding £25 in some cases and £10 in others) for the words from " to a fine " to " and" there shall be substituted the words " on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds, and ".

13 In section 702 of the Merchant Shipping Act 1894 (which provides for prosecution on indictment in Scotland)—

(a) after the words " High Court of Justiciary ", there shall be inserted the words " or the sheriff court ";

(b) after the word "punishable" there shall be inserted the words " , subject to any maximum penalty prescribed in respect of any particular offence in this Act, ".

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14 For section 703 of the Merchant Shipping Act 1894 (which provides for summary proceedings in Scotland) there shall be substituted the following section—

“**703** In Scotland—

- (a) any offence under this Act may be tried in a summary manner before the sheriff court and if so tried shall, subject to any other penalty prescribed in respect of any particular offence in this Act, on summary conviction be punishable with imprisonment for a term not exceeding six months and with a fine not exceeding one thousand pounds ;
- (b) all prosecutions in respect of offences under this Act in respect of which the maximum penalty which may be imposed does not exceed imprisonment for a period of three months or a fine of two hundred pounds or both may be tried in a summary manner before the district court.”

*The Merchant Shipping Act 1921*

15 In section 2(1) of the Merchant Shipping Act 1921 (under which a person who, among other things, uses in navigation a lighter or similar vessel which is so unsafe as to endanger human life is liable on summary conviction to a fine of up to £100 or to imprisonment for up to 6 months) for the words from "liable" onwards there shall be substituted the words " liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds ".

*The Merchant Shipping (Safety Convention) Act 1949*

16 In subsection (5) of section 3 of the Merchant Shipping (Safety Convention) Act 1949 (under which a radio officer who contravenes certain radio rules is liable to a fine not exceeding £10 and, if other radio rules are contravened in relation to a ship, the owner or master is liable on conviction on indictment to a fine in some cases and a fine not exceeding £500 in others or on summary conviction to a fine not exceeding £1,000 in some cases and £100 in others)—

- (a) for the word " £10 " there shall be substituted the word " £500 " ; and
- (b) for the words from " on indictment" onwards there shall be substituted the words " on indictment to a fine or on summary conviction to a fine not exceeding £1,000 ".

*The Merchant Shipping (Load Lines) Act 1967*

17 In section 4 of the Merchant Shipping (Load Lines) Act 1967 (of which subsection (2) provides that if any ship is loaded in contravention of subsection (1) of that section the owner or master shall be liable on summary conviction to a fine not exceeding £400 and to an additional fine not exceeding an amount calculated in accordance with subsection (3) of that section in terms of £400 for each inch or part of an inch by which the load line is or would have been submerged)—

- (a) in subsection (2) for the words “on summary conviction—
  - (a) to a fine not exceeding £400, and”there shall be substituted the words “—
  - (a) on conviction on indictment to a fine ;” and at the beginning of paragraph (b) there shall be inserted the

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words " on summary conviction to a fine not exceeding £1,000 and"; and

- (b) in subsection (3) for the words from " £400 " to " complete inches" there shall be substituted the words " £1,000 for each complete centimetre " and the words following paragraph (b) shall be omitted.

*The Merchant Shipping Act 1970*

18 In section 19(5) of the Merchant Shipping Act 1970 (which authorises safety regulations to make a contravention of the regulations punishable on summary conviction with a fine not exceeding £200 if the offence is committed by the master or owner of the ship and £20 if it is committed by another person) for the words from " summary conviction " onwards there shall be substituted the words " conviction on indictment with a fine and on summary conviction with a fine not exceeding £1,000 ".

19 In section 27(1) of the Merchant Shipping Act 1970 (under which the master or a member of the crew of a ship registered in the United Kingdom who improperly endangers the ship or persons on board the ship is liable on conviction on indictment to imprisonment for up to 2 years or to a fine and on summary conviction to a fine not exceeding £1,000 in some cases and £400 in others)—

- (a) for the words " or to a fine " there shall be inserted the words " and a fine "; and
- (b) for the words from " summary conviction " onwards there shall be substituted the words " summary conviction to a fine not exceeding £1,000 ".

20 In section 28 of the Merchant Shipping Act 1970 (which provides that a seaman who is under the influence of drink or drugs while on duty to such an extent that his capacity to carry out his duties is impaired shall be liable on summary conviction to a fine not exceeding £50) for the words from " summary conviction" onwards there shall be substituted the words " conviction on indictment to imprisonment for a term not exceeding two years and a fine and, on summary conviction, to a fine not exceeding £1,000 ".

21 In section 30 of the Merchant Shipping Act 1970 (which provides among other things that a seaman employed in a ship registered in the United Kingdom who persistently neglects his duty or disobeys orders or combines with other seamen to do so or to impede the ship's progress shall be liable on summary conviction to a fine not exceeding £100) for the words from " summary conviction " to " £100 " there shall be substituted the words " conviction on indictment, to imprisonment for a term not exceeding two years and a fine and, on summary conviction, to a fine not exceeding £1,000 ".

*The Merchant Shipping Act 1974*

22 In paragraph 5 of Schedule 2 to the Merchant Shipping Act 1974 (which among other things authorises oil tanker construction rules to provide for a person who breaks the rules to be liable on summary conviction to a fine of up to £100) for the word " £100 " there shall be substituted the word " £1,000 " and at the end of subparagraph (1) there shall be inserted the words " and on conviction on indictment to a fine ".

*Status: This is the original version (as it was originally enacted).*

## SCHEDULE 7

Section 47(2), 50(4).

### ENACTMENTS REPEALED

#### PART I

##### ENACTMENTS RELATING TO LIABILITY OF SHIPOWNERS AND SALVORS

Chapter	Short title	Extent of repeal
57 & 58 Vict, c. 60.	The Merchant Shipping Act 1894.	Part VIII.
63 & 64 Vict, c. 32.	The Merchant Shipping (Liability of Shipowners and Others) Act 1900.	Section 2(2) and (3).
6 Edw. 7. c. 48.	The Merchant Shipping Act 1906.	Section 69.
1 & 2 Geo. 5. c. 42.	The Merchant Shipping Act 1911.	Section 1(2).
11 & 12 Geo. 5. c. 29.	The Merchant Shipping Act 1921.	In section 1 the words and VIII".
6 & 7 Eliz. 2. c. 62.	The Merchant Shipping (Liability of Shipowners and Others) Act 1958.	The whole Act except section 11 so far as applying to the Merchant Shipping (Liability of Shipowners and Others) Act 1900.
1965 c. 47.	The Merchant Shipping Act 1965.	Section 5(2). In Schedule 1, the entry relating to the Crown Proceedings Act 1947.
1965 c. 57.	The Nuclear Installations Act 1965.	In section 14(1) the words from " and section 503 " to " shipowners) ".
1971 c. 59.	The Merchant Shipping (Oil Pollution) Act 1971.	Section 4(1)(a). Section 8A.
1974 c. 43.	The Merchant Shipping Act 1974.	Section 4(1)(c)(ii) together with the word " or " preceding it. Section 9.

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*Status: This is the original version (as it was originally enacted).*

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## PART II

### OTHER ENACTMENTS

Chapter	Short title	Extent of repeal
57 & 58 Vict, c. 60.	The Merchant Shipping Act 1894.	Section 73(4) and (5). Section 360(3). In section 369(3) the words from " and " onwards. Section 420(3). In section 431(1) the words from " and " onwards. In section 446(2) the words from " then " onwards. Section 457. Section 468. Section 637. In section 638 the words from "but "to" of this Act". Sections 640 and 641. Sections 670 to 672 and Section 677(m). Section 724(4). Sections 729 and 730.
61 & 62 Vict, c. 44.	The Merchant Shipping (Mercantile Marine Fund) Act 1898.	Section 2(1) and (2). Section 5(3). In section 7 the words " or out of colonial light dues " and the definition of "Basses Lights Fund ". Schedule 2. In Schedule 3, paragraph II.
6 Edw. 7. c.48.	The Merchant Shipping Act 1906.	Section 82(2).
2 & 3 Geo. 5. c. 31.	The Pilotage Act 1913.	Sections 1, 2 and 6. In section 7, in paragraph (c) of subsection (1) the words from " distinguishing " to " in which pilotage is compulsory ", paragraph (a)

*Status: This is the original version (as it was originally enacted).*

Chapter	Short title	Extent of repeal
		of subsection (4), and subsections (5) and (6) Sections 8(2), 9 and 10. In section 11, paragraph (b) of subsection (3), and subsections (4) and (5). Sections 13 and 14. In section 17(1), in paragraph (f) the words from the beginning to " scales and ", in paragraph (h) the words from " sums required " to " or any ", and paragraph (i). In section 22(1) the words from " and any returns" onwards. Section 24. In section 30(2) the words " to the licensed pilot and ". Sections 32(2), 33(2) and 34(2) and (3). In section 35, subsection (2) and in subsection (3) the words " his " and " pilot's ". In section 39, paragraphs (a) and (b) of subsection (1) and in subsection (2) the words " that the pilot boat possesses all the above characteristics and" and the words from " and also " to " concealed ". Sections 48(1)(a), 56, 58 and 59. In Schedule 1, paragraphs 1 to 6, 8 and 9.
9 & 10 Geo. 5. c. 92.	The Aliens Restriction (Amendment) Act 1919.	Section 4.
12 & 13 Geo. 6. c. 43.	The Merchant Shipping (Safety Convention) Act 1949.	Section 24(4).
1964 c. 47.	The Merchant Shipping Act 1964.	In section 7(2) the words from " and for that purpose " to "Acts ".

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*Status: This is the original version (as it was originally enacted).*

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Chapter	Short title	Extent of repeal
1965 c. 47.	The Merchant Shipping Act 1965.	In section 1(2)(c) the words from " and may " to " those purposes "  In Schedule 1 the entry relating to section 85(3) of the Merchant Shipping Act 1894.
1967 c. 27.	The Merchant Shipping (Load Lines) Act 1967.	In section 4(3) the words from " and, if " onwards.  Section 11(2).  In sections 17(1) and 24(6) the words from " and " onwards.  Section 27(4).  In Schedule 1, the entry relating to section 281(2) of the Merchant Shipping Act 1894.
1970 c. 27.	The Fishing Vessels (Safety Provisions) Act 1970.	In section 1(3) the words from " and " onwards.
1970 c. 36.	The Merchant Shipping Act 1970.	In section 6(4) the words from " and if " onwards.  In section 15(1) the words from " unless " onwards.  Sections 34 to 38.  In section 95(1)(a) the words " 34 to 38 "  In section 99(1) the words from " except" to " to this Act".  In Schedule 2, paragraph 2.  In Schedule 5, in the entries relating to the Merchant Shipping Act 1894, the words " Section 271(3)".
1971 c. 59.	The Merchant Shipping (Oil Pollution) Act 1971.	Section 4(3) to (5).
1971 c. 60.	The Prevention of Oil Pollution Act 1971.	In section 18(5) the words from " and in subsection (3)" onwards.
1974 c. 43.	The Merchant Shipping Act 1974.	Section 1(6) and (7).  Section 19(2), (5) and (6).

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*Status: This is the original version (as it was originally enacted).*

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Chapter	Short title	Extent of repeal
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	In Schedule 7C the entry relating to the Merchant Shipping Act 1894.
1977 c. 45.	The Criminal Law Act 1977.	In Schedule 6 the entry relating to the Merchant Shipping Act 1894.