

2006 No. 1244

MERCHANT SHIPPING

**The Merchant Shipping (Oil Pollution) (Bunkers Convention)
Regulations 2006**

<i>Made</i>	- - - -	<i>2nd May 2006</i>
<i>Laid before Parliament</i>		<i>4th May 2006</i>
<i>Coming into force</i>		
<i>for the purpose of enabling the issue of certificates under regulation 18</i>		<i>15th July 2006</i>
<i>for all other purposes in accordance with regulation 1(2)</i>		

The Secretary of State is a Minister designated in relation to measures relating to maritime transport(a) for the purpose of section 2(2) of the European Communities Act 1972(b).

Accordingly, the Secretary of State, in exercise of the powers conferred upon him by that section, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006.

(2) Subject to paragraph (4), these Regulations shall come into force on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001(c) comes into force in respect of the United Kingdom.

(3) The date on which these Regulations are to come into force shall be notified by the Secretary of State in the London, Edinburgh and Belfast Gazettes.

(4) These Regulations shall come into force on 15th July 2006 so far as may be necessary for the purpose of enabling certificates under section 164(1A) of the Merchant Shipping Act 1995(d) (as inserted by regulation 18) to be issued before the date mentioned in paragraph (2).

(5) Nothing in these Regulations applies in relation to—

- (a) any occurrence before the day mentioned in paragraph (2); or
- (b) any occurrence in a series of occurrences having the same origin, if the first took place before that day.

(a) S.I. 1994/757.
(b) 1972 c.68.
(c) Cmnd. 6693.
(d) 1995 c.21.

Amendments to the Merchant Shipping Act 1995

2. Chapter 3 of Part 6 of the Merchant Shipping Act 1995 (liability for oil pollution) is amended as follows.

Meaning of “the Liability Convention”, “the Bunkers Convention” and other expressions

3.—(1) Section 152 (meaning of “the Liability Convention” and related expressions) is amended as follows.

(2) In the heading, before ““the Liability Convention”“ there is inserted ““the Bunkers Convention””.

(3) In subsection (1) —

(a) before the definition of “the Liability Convention”, there is inserted—

““the Bunkers Convention” means the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001;

“Bunkers Convention country” means a country in respect of which the Bunkers Convention is in force;

“Bunkers Convention State” means a State which is a party to the Bunkers Convention;”;

(b) in the definition of “Liability Convention State”, after “the” there is inserted “Liability”.

(4) In subsection (2), after “Convention” (in the first place it appears), there is inserted “or the Bunkers Convention” and for “the Liability Convention” (in the second place it appears), there is substituted “that Convention”.

Liability for oil pollution in case of tankers

4.—(1) Section 153 (liability for oil pollution in case of tankers) is amended as follows.

(2) For “owner” and “owners” (in each place), there is substituted respectively “registered owner” and “registered owners”.

(3) In subsection (2), the words after paragraph (b) are omitted.

(4) After subsection (2), there is inserted—

“(2A) In this Chapter, such a threat is referred to as a relevant threat of contamination falling within subsection (2) of this section.”.

(5) Subsections (7) and (8) are omitted.

Liability for pollution by bunker oil

5. After section 153, there is inserted—

“153A Liability for pollution by bunker oil

(1) Subject to subsection (3), where, as a result of any occurrence, any bunker oil is discharged or escapes from a ship then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

(a) for any damage caused outside the ship in the territory of the United Kingdom by contamination resulting from the discharge or escape; and

(b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the United Kingdom by contamination resulting from the discharge or escape; and

(c) for any damage caused in the territory of the United Kingdom by any measures so taken.

(2) Subject to subsection (3), where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship by the contamination that might result if there were a discharge or escape of bunker oil from the ship then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the United Kingdom; and
- (b) for any damage caused outside the ship in the territory of the United Kingdom by any measures so taken.

(3) There shall be no liability under this section in relation to —

- (a) a discharge or escape of bunker oil from a ship to which section 153 applies, or
- (b) a threat mentioned in subsection (2) arising in relation to a potential discharge or escape of bunker oil from such a ship,

where that bunker oil is also persistent hydrocarbon mineral oil.

(4) In the subsequent provisions of this Chapter—

- (a) a discharge or escape of bunker oil from a ship, other than a discharge or escape of oil excluded by subsection (3), is referred to as a discharge or escape of bunker oil falling within subsection (1) of this section; and
- (b) a threat mentioned in subsection (2), other than one excluded by subsection (3), is referred to as a relevant threat of contamination falling within subsection (2) of this section.

(5) Where a person incurs a liability under subsection (1) or (2) he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the territory of the United Kingdom included the territory of any other Bunkers Convention country.

(6) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(7) In this Chapter (except in section 170(1)) “owner”, except when used in the term “registered owner”, means the registered owner, bareboat charterer, manager and operator of the ship.”.

Further liability for oil pollution

6.—(1) Section 154 (liability for pollution in case of other ships) is amended as follows.

(2) In the heading, for “in case of other ships” there is substituted “in other cases”.

(3) For “owner” and “owners” (in each place), there is substituted respectively “registered owner” and “registered owners”.

(4) In subsections (1) and (2), at the beginning there is inserted “Subject to subsection (2A),” and the words “other than a ship to which section 153 applies” are omitted.

(5) In subsection (2), the words after paragraph (b) are omitted.

(6) After subsection (2), there is inserted—

“(2A) No liability shall be incurred under this section by reason of—

- (a) a discharge or escape of oil from a ship to which section 153 applies or a relevant threat of contamination falling within subsection (2) of that section;

- (b) a discharge or escape of bunker oil falling within section 153A(1) or a relevant threat of contamination falling within section 153A(2).

(2B) In the subsequent provisions of this Chapter—

- (a) a discharge or escape of oil from a ship, other than one excluded by subsection (2A), is referred to as a discharge or escape of oil falling within subsection (1) of this section; and
- (b) a threat mentioned in subsection (2), other than one excluded by subsection (2A), is referred to as a relevant threat of contamination falling within subsection (2) of this section.”.

(7) In subsection (5), after “section”, there is inserted “(apart from subsection (2A))”.

Exceptions from liability under sections 153, 153A and 154

7.—(1) Section 155 (exceptions from liability under sections 153 and 154) is amended as follows.

(2) In the heading, after “153”, there is inserted “, 153A”.

(3) For the words from “No” to “contamination” (in the second place it appears) there is substituted—

“(1) No liability shall be incurred by a person (“the defendant”) under section 153, 153A or 154 by reason of a discharge or escape of oil or bunker oil from a ship, or of a relevant threat of contamination, if the defendant proves that subsection (2) applies.

(2) This subsection applies if the discharge or escape or the relevant threat of contamination (as the case may be) —”.

(4) In paragraph (b), for “owner”, there is substituted “defendant”.

Restriction of liability for oil pollution

8.—(1) Section 156 (restriction of liability for oil pollution) is amended as follows.

(2) In the heading, for “oil pollution”, there is substituted “pollution from oil or bunker oil”.

(3) In subsection (1)—

(a) for paragraphs (a) and (b), there is substituted—

“(a) there is a discharge or escape of oil from a ship to which section 153 applies or there arises a relevant threat of contamination falling within subsection (2) of that section, or

(b) there is a discharge or escape of oil falling within section 154(1) or there arises a relevant threat of contamination falling within section 154(2),”; and

(b) for “owner”, there is substituted “registered owner”.

(4) In subsection (2), for “owner”, in both places, there is substituted “registered owner”.

(5) After subsection (2), there is inserted—

“(2A) Where, as a result of any occurrence—

(a) there is a discharge or escape of bunker oil falling within section 153A(1), or

(b) there arises a relevant threat of contamination falling within section 153A(2),

then, whether or not the owner of the ship in question incurs any liability under section 153A—

(i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it; and

(ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him

either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2B) Subsection (2A)(ii) applies to—

- (a) any servant or agent of the owner;
- (b) any person not falling within paragraph (a) above but engaged in any capacity on board the ship or to perform any service for the ship;
- (c) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (d) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 153A;
- (e) any servant or agent of a person falling within paragraph (c) or (d).”.

(6) In subsection (3), for “the owner of a ship under section 153 or 154”, there is substituted “a person under section 153, 153A or 154”.

Liability under section 153, 153A or 154: supplementary provisions

9. After section 156, there is inserted—

“156A Liability under section 153, 153A or 154: supplementary provisions

(1) For the purposes of this Chapter —

- (a) references to a discharge or escape of oil or bunker oil from a ship are references to such a discharge or escape wherever it may occur;
- (b) references to a discharge or escape of oil from a ship include a discharge or escape of oil carried in the bunkers of the ship;
- (c) where more than one discharge or escape of oil or bunker oil results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
- (d) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

(2) The Law Reform (Contributory Negligence) Act 1945(a) and, in Northern Ireland, the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948(b) shall apply in relation to any damage or cost for which a person is liable under section 153, 153A or 154, but which is not due to his fault, as if it were due to his fault.”.

Limitation of liability under section 153

10. In the cross-heading before section 157, at the end, there is inserted “*under section 153*”.

11. In section 157 (limitation of liability under section 153) —

- (a) in subsection (1), for “owner” there is substituted “registered owner” and after “contamination” there is inserted “falling within subsection (2) of that section”; and
- (b) in subsection (3), for “owner” there is substituted “registered owner”.

Limitation actions

12. In section 158 (limitation actions) —

- (a) in subsection (1), for “owner”, there is substituted “registered owner”; and

(a) 1945 c. 48.

(b) 1948 c. 23 (N.I).

- (b) in subsection (5)(a), for “owner” there is substituted “registered owner” and at the end there is inserted “(in relation to any insurance or other security provided as mentioned in subsection (1) of that section)”.

Concurrent liabilities of owners and others

13. In section 160 (concurrent liabilities), for “owner” (in each place), there is substituted “registered owner”.

Limitation period for claims

14. Before section 162, there is inserted the following cross-heading: “*Limitation period for claims under this Chapter*”.

15. In section 162 (extinguishment of claims), after “153”, there is inserted “, 153A”.

Compulsory insurance against liability for oil pollution

16. In section 163(5) (compulsory insurance against liability for pollution), for “owner”, there is substituted “registered owner”.

Compulsory insurance for pollution by bunker oil

17. After section 163, there is inserted—

“163A Compulsory insurance against liability for pollution from bunker oil

(1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) below shall apply to any ship having a gross tonnage greater than 1,000 tons calculated in the manner prescribed by an order made by the Secretary of State under paragraph 5(2) of Part II of Schedule 7.

(2) The ship shall not enter or leave a port in the United Kingdom or arrive at or leave a terminal in the territorial sea of the United Kingdom nor, if the ship is a United Kingdom ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force—

- (a) a contract of insurance or other security in respect of the ship satisfying the requirements of Article 7 of the Bunkers Convention; and
- (b) a certificate complying with the provisions of subsection (3) showing that there is in force in respect of the ship a contract of insurance or other security satisfying those requirements.

(3) The certificate must be—

- (a) if the ship is a United Kingdom ship, a certificate issued by the Secretary of State;
- (b) if the ship is registered in a Bunkers Convention country other than the United Kingdom, a certificate issued by or under the authority of the government of the other Bunkers Convention country; and
- (c) if the ship is registered in a country which is not a Bunkers Convention country, a certificate issued by the Secretary of State or by or under the authority of the government of any Bunkers Convention country other than the United Kingdom.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any officer of Revenue and Customs or of the Secretary of State and, if the ship is a United Kingdom ship, to any proper officer.

(5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) by reason of there being no certificate in force as mentioned in that subsection, the master or registered

owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding the statutory maximum.

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4), the master shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) If a ship attempts to leave a port in the United Kingdom in contravention of subsection (2), the ship may be detained.

(8) Any document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of (or otherwise in connection with) proceedings for an offence under subsection (5) against the company as registered owner of the ship shall be treated as duly served on the company if the document is served on the master of the ship.

In this subsection “foreign company” means a company or body which is not one to which any of sections 695 and 725 of the Companies Act 1985(a) and Articles 645 and 673 of the Companies (Northern Ireland) Order 1986(b) applies so as to authorise the service of the document under any of those provisions.

(9) Any person authorised to serve any document for the purposes of the institution of (or otherwise in connection with) the institution of proceedings for an offence under this section shall, for that purpose, have the right to go on board the ship in question.

(10) In the case of a ship of which, at any relevant time, the tonnage has not been and cannot be ascertained in the manner set out in subsection (1), the best available evidence shall be used in calculating the tonnage of the ship in accordance with any order under paragraph 5(2) of Part II of Schedule 7.”

Issue of certificate by Secretary of State

18.—(1) Section 164 (issue of certificate by Secretary of State) is amended as follows.

(2) In subsection (1)—

- (a) for “section 163”, there is substituted “section 163(2)”; and
- (b) for “owner”, there is substituted “registered owner”.

(3) After subsection (1), there is inserted—

“(1A) Subject to subsection (2) below, if the Secretary of State is satisfied, on the application for such a certificate as is mentioned in section 163A(2) in respect of a United Kingdom ship or a ship registered in any country which is not a Bunkers Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article 7 of the Bunkers Convention, the Secretary of State shall issue such a certificate to the registered owner.”.

(4) For subsection (2), there is substituted—

“(2) The Secretary of State may refuse the certificate if he is of the opinion that there is a doubt whether—

- (a) the person providing the insurance or other security will be able to meet his obligations thereunder; or
- (b) the insurance or other security will cover the registered owner’s liability under section 153, or the owner’s liability under section 153A, as the case may be.”.

Rights of third parties against insurers

19.—(1) Section 165 (rights of third parties against insurers) is amended as follows.

(a) 1985 c. 6.
(b) S.I.1986/1032 (N.I.6).

- (2) In subsection (1) —
- (a) for “owner” there is substituted “registered owner”;
 - (b) for “163” there is substituted “163(2)”; and
 - (c) the words from “(in the” to the end are omitted.
- (3) After subsection (1), there is inserted—
- “(1A) Where it is alleged that the owner of a ship has incurred a liability under section 153A as a result of any discharge or escape of bunker oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 163A(2) related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security.
- (1B) In the following provisions of this section, “the insurer” means the person who provided the insurance or other security referred to in subsection (1) or subsection (1A), as the case may be.”.
- (4) In subsection (2) —
- (a) after “section”, there is inserted “in respect of liability under section 153”;
 - (b) for “owner’s”, there is substituted “registered owner’s”; and
 - (c) for “owner”, there is substituted “registered owner”.
- (5) In subsection (3) —
- (a) after “claims”, there is inserted “in respect of liability under section 153 which are”;
 - (b) for “owner” (in both places), there is substituted “registered owner”; and
 - (c) after “his liability”, there is inserted “under section 157”.
- (6) In subsection (4) —
- (a) for “owner”, there is substituted “registered owner”; and
 - (b) after “liability”, there is inserted “(in relation to liability under section 153)”.
- (7) After subsection (4), there is inserted—
- “(4A) In any proceedings brought against the insurer by virtue of this section in respect of liability under section 153A it shall be a defence (in addition to any defence affecting the owner’s liability) to prove that the discharge or escape, or (as the case may be) the threat of contamination, was due to the wilful misconduct of the owner himself.
- (4B) The insurer may limit his liability in respect of claims in respect of liability under section 153A which are made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability by virtue of section 185; but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from any act or omission mentioned in Article 4 of the Convention set out in Part I of Schedule 7.
- (4C) Where the owner and the insurer each apply to the court for the limitation of his liability (in relation to liability under section 153A) any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.”.
- (8) In subsection (5), after “163”, there is inserted “or 163A”.

Jurisdiction of United Kingdom courts and registration of foreign judgments

20.—(1) Section 166 (jurisdiction of United Kingdom courts and registration of foreign judgments) is amended as follows.

- (2) In subsection (2)—
- (a) in paragraph (a), for “any oil is discharged or escapes from a ship but” there is substituted “there is a discharge or escape of oil from a ship to which section 153 applies, or a discharge or escape of oil falling within section 154(1), which”,

- (b) in paragraph (b), after “contamination” there is inserted “falling within section 153(2) or 154(2)”, and
- (c) in paragraph (i), for “owner” there is substituted “registered owner”.

(3) After subsection (3), there is inserted—

“(3A) Where—

- (a) there is a discharge or escape of bunker oil falling within section 153A(1) which does not result in any damage caused by contamination in the territory of the United Kingdom and no measures are reasonably taken to prevent or minimise such damage in that territory, or
- (b) any relevant threat of contamination falling within section 153A(2) arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the United Kingdom,

no court in the United Kingdom shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—

- (i) against the owner of the ship, or
- (ii) against any person to whom section 156(2A)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(3B) In subsection (3A) above, “relevant damage or cost” means—

- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Bunkers Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Bunkers Convention country;
- (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Bunkers Convention country; or
- (c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 156(2B)(d) shall have effect for the purpose of subsection (3A)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.”.

(4) For subsection (4), there is substituted—

“(4) Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this section, to—

- (a) any judgment given by a court in a Liability Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153; and
- (b) any judgment given by a court in a Bunkers Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153A;

and in its application to any such judgment that Part shall have effect with the omission of section 4(2) and (3) of that Act.”.

Government ships

21.—(1) Section 167 (Government ships) is amended as follows.

(2) For subsection (2), there is substituted—

“(2) In relation to a ship owned by a State and for the time being used for commercial purposes—

- (a) it shall be sufficient compliance with section 163(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of that Convention; and
 - (b) it shall be sufficient compliance with section 163A(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article 1 of the Bunkers Convention will be met up to the limits set out in Chapter II of the Convention in Part I of Schedule 7.”.
- (3) After subsection (3), there is added—
- “(4) Every Bunkers Convention State shall, for the purposes of any proceedings brought in a court in the United Kingdom to enforce a claim in respect of a liability incurred under section 153A, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, or in Scotland, the execution of diligence, against the property of any State.”.

Limitation of liability under section 153A

22. In section 168 (limitation of liability under section 154) —
- (a) in the heading, after “section” there is inserted “153A or”;
 - (b) for “section 154”, there is substituted “section 153A or 154”.

Amendment of section 170 (Interpretation)

- 23.—(1) Section 170 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) after “Chapter”, there is inserted “(except this subsection)”;
 - (b) before the definition of “the court”, there is inserted—
 - ““bunker oil” means any hydrocarbon mineral oil (including lubricating oil) which is carried by a ship and used or intended to be used for the operation or propulsion of that ship and any residues of such oil;”;
 - (c) in the definition of “oil”, after ““oil””, there is inserted “, except in the term “bunker oil””;
 - (d) in the definition of “owner”, for “means”, there is substituted “has the meaning given by section 153A(7);
- “registered owner” means”; and
- (e) in the definition of “relevant threat of contamination” for the words from “shall” to the end there is substituted—
 - “includes (unless a contrary intention appears) —
 - (a) a relevant threat of contamination falling within section 153(2) (as defined in section 153(2A));
 - (b) a relevant threat of contamination falling within section 153A(2) (as defined in section 153A(4)); and
 - (c) a relevant threat of contamination falling within section 154(2) (as defined in section 154(2B));”.
- (3) In subsection (2)—
- (a) after “oil”, there is inserted “or bunker oil”;
 - (b) after “owner” in the first place it appears, there is inserted “or the registered owner”;

(c) after “owner” in the second place it appears, there is inserted “or the registered owner (as the case may be)”.

(4) In subsection (4)(b), after “Liability Convention country”, there is inserted “or Bunkers Convention country”.

Signed by authority of the Secretary of State

2nd May 2006

S.J. Ladyman
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Chapter 3 of Part 6 of the Merchant Shipping Act 1995 in order to implement Council Decision 2002/762/EC authorising the Member States, in the interests of the Community, to sign, ratify or accede to the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 (the Bunkers Convention) (OJ L 256, 25.9.2002, p.7).

Regulation 3 amends section 152 by inserting definitions of “the Bunkers Convention” and related expressions.

Regulation 5 inserts section 153A. Section 153A provides that where, as a result of any occurrence, any bunker oil is discharged or escapes from a ship, the owner of the ship shall be liable for any damage caused outside the ship in the territory of the United Kingdom by contamination resulting from the discharge or escape. The owner is also liable for the cost of any measures reasonably taken for the purpose of preventing or minimising the damage and for any damage caused by the measures taken. Furthermore, where there is a grave and imminent threat of contamination by bunker oil, the owner is liable for the cost of measures taken to prevent or minimise damage and for damage caused by those measures.

The “owner” of a ship is defined, in relation to liability for bunker oil contamination, as including the registered owner of the ship, the bareboat charterer, the manager and the operator of the ship (section 153A(7)). *Regulations 10 to 16* make consequential amendments.

“Bunker oil” is defined as any hydrocarbon mineral oil which is carried by a ship used or intended to be used for the operation or propulsion of that ship and any residues of such oil (section 170(1) as amended by regulation 23(2)(a)).

Regulation 6 amends section 154 (Liability for pollution in case of other ships) of the 1995 Act so that where, as a result of any occurrence, any oil is discharged or escapes from a vessel which is not sea-going the owner is liable for any damage caused outside the ship in the territory of the United Kingdom by resulting contamination, for the cost of measures to minimise or prevent damage and for damage caused by any such measures taken. Liability also arises where there is a relevant threat of contamination.

Regulation 7 amends section 155 to create exceptions from liability under new section 153A. *Regulation 8* amends section 156 in order to create certain restrictions on the liability of the owner, salvors and others in the case of bunker oil spills. *Regulation 9* inserts new section 156A which makes supplementary provision in respect of liability under sections 154, 153A and 154.

Regulation 17 inserts new section 163A which makes provision for compulsory insurance in respect of bunker oil contamination for ships having a gross tonnage greater than 1,000 tons. Section 163A(7) creates a power of detention exercisable where a ship leaves a port in the UK in contravention of section 163A(2). Section 284 (enforcing detention of a ship) of the 1995 Act makes it an offence to fail to comply with a notice of detention. *Regulation 18* amends section 164 to make provision for the issue by the Secretary of State of a certificate where there is in force insurance or other security satisfying Article 7 of the Bunkers Convention.

Regulation 19 amends section 165 (Rights of third parties against insurers) to make provision in respect of the rights of third parties against insurers where it is alleged that the owner of a ship has incurred a liability under section 153A.

Regulation 20 amends section 166 (Jurisdiction of United Kingdom courts and registration of foreign judgments) to make provision in respect of the jurisdiction of United Kingdom courts and the registration of foreign judgments and *regulation 21* amends section 167 (Government ships) to make provision in respect of Government ships.

Regulation 22 amends section 168 (Limitation of liability under section 154) so that, for the purposes of section 185 (Limitation of liability for maritime claims) of the Act, any liability incurred under section 153A shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in paragraph 1(a) of Article 2 of the Convention on Limitation of Liability for Maritime Claims 1976.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Department for Transport (SP), Zone 2/28, Great Minster House, 76 Marsham Street London SW1P 4DR. A copy has been placed in the Library of each House of Parliament and it may also be accessed on the HMSO website (www.opsi.gov.uk).

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