



Jersey

# **SHIPPING (OIL POLLUTION) (LIABILITY AND COMPENSATION) (JERSEY) LAW 2015**

## **Official Consolidated Version**

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## SHIPPING (OIL POLLUTION) (LIABILITY AND COMPENSATION) (JERSEY) LAW 2015

### Contents

#### Article

<b>PART 1</b>		<b>4</b>
INTRODUCTORY PROVISIONS		4
1	Interpretation .....	4
2	Application .....	7
3	States that are Parties to Convention or Protocol .....	7
<b>PART 2</b>		<b>7</b>
LIABILITY FOR OIL POLLUTION		7
4	Liability of tankers .....	7
5	Liability of other ships .....	9
6	Exceptions from liability under Articles 4 and 5 .....	9
7	Restriction of liability .....	10
8	Limitation of liability .....	11
9	Limitation actions .....	11
10	Restrictions on enforcement .....	12
11	Concurrent liability of owners and others .....	13
12	Concurrent liability outside Jersey .....	13
13	Extinguishment of liability claims .....	13
14	Compulsory insurance .....	14
15	Issue of insurance certificate by Minister .....	14
16	Rights of third parties against insurers .....	15
17	Jurisdiction of Jersey courts .....	15
18	Government ships .....	16
19	Limitation of liability under Article 5 .....	16
20	Recourse actions .....	17
<b>PART 3</b>		<b>17</b>
THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND		17
21	Contributions to the Fund and to the Supplementary Fund .....	17
22	Power to obtain information .....	18
23	Liability of the Fund .....	19
24	Limitation of the Fund's liability .....	20

25	Liability of the Supplementary Fund .....	21
26	Limitation of the Supplementary Fund's liability under Article 25 .....	22
27	Jurisdiction in respect of the Fund and the Supplementary Fund .....	23
28	Extinguishing of claims against the Fund and the Supplementary Fund .....	24
29	Subrogation .....	24
30	Proceedings against the Fund and the Supplementary Fund .....	25
<b>PART 4</b>		<b>25</b>
OTHER PROVISIONS		25
31	Offences.....	25
32	Offences on ships .....	25
33	Detention of ships .....	26
34	Exemption from taxes and duties.....	26
35	Regulations .....	27
36	Citation .....	27
<b>SCHEDULE 1</b>		<b>28</b>
THE FUND CONVENTION 1992: ARTICLE 4, PARAGRAPHS 4 AND 5		28
<b>SCHEDULE 2</b>		<b>29</b>
THE SUPPLEMENTARY FUND PROTOCOL 2003: ARTICLE 4, PARAGRAPHS 1, 2 AND 3		29
<b>ENDNOTES</b>		<b>31</b>
Table of Legislation History.....		31
Table of Renumbered Provisions .....		31
Table of Endnote References .....		31



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## SHIPPING (OIL POLLUTION) (LIABILITY AND COMPENSATION) (JERSEY) LAW 2015

A LAW to continue to give effect in Jersey to the International Convention on Civil Liability for Oil Pollution Damage, 1992 (“the Liability Convention”), and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (“the Fund Convention”); and to give effect in Jersey to the Protocol of 2003 to the Fund Convention (“the Supplementary Fund Protocol”); and for related purposes.

Commencement [[see endnotes](#)]

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### PART 1

#### INTRODUCTORY PROVISIONS

#### 1 Interpretation

- (1) In this Law, unless the context otherwise requires –
- “1960 Law” means the [Judgments \(Reciprocal Enforcement\) \(Jersey\) Law 1960](#);
  - “British citizen” has the same meaning as it has in the British Nationality Act 1981 (c.61) of the United Kingdom;
  - “claimant” means a person who makes a claim against the Fund or the Supplementary Fund;
  - “company”, in Articles 21 and 22, means a body incorporated under the law of Jersey, or of any other country;
  - “court” means the Inferior Number of the Royal Court;
  - “crude oil”, in Articles 21 and 22, means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, including –
    - (a) crude oils from which distillate fractions have been removed; and
    - (b) crude oils to which distillate fractions have been added;
  - “customs officer” means the Agent of the Impôts or any other officer of the Impôts;
  - “damage” includes loss;
  - “discharge or escape”, in Part 3, in respect of pollution damage, means the discharge or escape of oil from the ship;

“fuel oil”, in Articles 21 and 22, means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D396–69)”, or heavier;

“Fund” means the International Fund established by the Fund Convention;

“Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;

“Fund Convention country” means a country in respect of which the Fund Convention is in force, including the United Kingdom and any relevant British possession to which the Fund Convention has been extended;

“guarantor”, in Part 3, means any person providing insurance or other financial security to cover the owner’s liability of the kind described in Article 14;

“harbour” includes estuaries, navigable rivers, piers, jetties and other works in or at which ships can obtain shelter or ship and unship goods or passengers;

“incident”, in Part 3, means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

“insurance certificate” means a certificate such as mentioned in Article 14(2);

“Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1992;

“Liability Convention country” means a country in respect of which the Liability Convention is in force, including the United Kingdom and any relevant British possession to which the Liability Convention has been extended;

“Liability Convention State” means a State that is a party to the Convention;

“master” –

- (a) in the case of a ship that is not a fishing vessel, includes every person having command or charge of the ship except a pilot; and
- (b) in the case of a fishing vessel, means the skipper;

“Minister” means the Minister for Sustainable Economic Development <sup>1</sup>;

“oil” –

- (a) in Part 2, means persistent hydrocarbon mineral oil;
- (b) in Part 3, except in Articles 21 and 22, means persistent hydrocarbon mineral oil; and
- (c) in Articles 21 and 22, means crude oil and fuel oil;

“owner”, in Part 2 and Part 3, means (subject to paragraphs (2) and (3)) the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship;

“pollution damage” means –

- (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship;
- (b) the cost of preventive measures; and
- (c) further damage caused by preventive measures,

but does not mean any damage attributable to any impairment of the environment except to the extent that the damage consists of –

- (i) any loss of profits; or

(ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;

“port” includes a place;

“preventive measures” means any reasonable measures taken by any person to prevent or minimize pollution damage, being measures taken –

- (a) after an incident has occurred; or
- (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

“registered” means, in respect of a ship registered in Jersey, registered (or taken as registered) under Part 3 of the [Shipping \(Jersey\) Law 2002](#);

“relevant British possession” means –

- (a) the Isle of Man;
- (b) any of the Channel Islands; or
- (c) a part of Her Majesty’s dominions outside the British Islands except –
  - (i) a country having fully responsible status within the Commonwealth,
  - (ii) a territory for whose external relations a country other than the United Kingdom is responsible, or
  - (iii) a territory maintaining a status of association with the United Kingdom in accordance with the West Indies Act 1967,

and, for the purposes of paragraph (c) of this definition, where parts of such dominions are under both a central and a local legislature, all parts under the central legislature are to be treated as being one possession;

“relevant threat of contamination” –

- (a) in Part 2, shall be construed in accordance with Article 4(2) or Article 5(2), as the case requires; and
- (b) in Part 3, means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship;

“ship” –

- (a) in Part 2, means (subject to Article 5(5)) any sea-going vessel or sea-borne craft of any type whatsoever;
- (b) in Part 3, means any ship (within the meaning of Part 2) to which Article 4 applies; and
- (c) except in Parts 2 and 3, includes every description of vessel used in navigation;

“Supplementary Fund Protocol” means the Protocol of 2003 to the Fund Convention;

“Supplementary Fund” means the International Supplementary Fund established by the Supplementary Fund Protocol;

“Supplementary Fund Protocol country” means a country in respect of which the Supplementary Fund Protocol is in force.

- (2) In respect of a ship that is owned by a State and operated by a person registered as the ship’s operator, references in Parts 2 and 3 to the owner of the ship are references to the person registered as its operator.

- (3) In respect of any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in Part 2 to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.
- (4) References in Part 2 or Part 3 to the territory of a country include the territorial sea of that country.
- (5) References in Part 2 to the territory of a country (other than Jersey) that is a Liability Convention country, and in Part 3 to a country (other than Jersey) that is a Fund Convention country or a Supplementary Fund Protocol country, also include –
  - (a) the exclusive economic zone of that country established in accordance with international law; or
  - (b) if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined, by the State responsible for the country, in accordance with international law.
- (6) For the purposes of Part 3 –
  - (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
  - (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

## **2 Application**

This Law shall not apply to ships belonging to Her Majesty, unless otherwise expressly provided.

## **3 States that are Parties to Convention or Protocol**

If Her Majesty by Order in Council declares that any State specified in the Order is a Party to the Fund Convention, the Liability Convention or the Supplementary Fund Protocol in respect of any country so specified, the Order shall while in force be conclusive evidence that the State is a Party to that Convention or Protocol in respect of that country.

# **PART 2**

## **LIABILITY FOR OIL POLLUTION**

## **4 Liability of tankers**

- (1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this Article applies, then (except as otherwise provided by this Part) the owner of the ship shall be liable –

- (a) for any damage caused outside the ship in Jersey by contamination resulting from the discharge or escape;
  - (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimizing any damage so caused in Jersey by contamination resulting from the discharge or escape; and
  - (c) for any damage caused in Jersey by any measures so taken.
- (2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this Article applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Part) the owner of the ship shall be liable –
  - (a) for the cost of any measures reasonably taken for the purpose of preventing or minimizing any such damage in Jersey; and
  - (b) for any damage caused outside the ship in Jersey by any measures so taken, and in this Part any such threat is referred to as a relevant threat of contamination.
- (3) Subject to paragraph (4), this Article applies to any ship constructed or adapted for carrying oil in bulk as cargo.
- (4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this Article shall apply to any such ship –
  - (a) while it is carrying oil in bulk as cargo; and
  - (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil, but not otherwise.
- (5) Where a person incurs a liability under either of paragraphs (1) and (2), he or she shall also be liable for any damage or cost for which the person would be liable under that paragraph if the references in it to Jersey included the territory of any other Liability Convention country.
- (6) Where –
  - (a) as a result of any occurrence, a liability is incurred under this Article by the owner of each of 2 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 Article.
- (7) For the purposes of this Part –
  - (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
  - (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be treated as having been taken after the discharge or escape; and
  - (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

- (8) Where a person is liable under this Article for any damage or cost that is not a result of the person's fault, Article 4 of the [Law Reform \(Miscellaneous Provisions\) \(Jersey\) Law 1960](#) (which relates to liability arising from contributory negligence) shall apply in respect of the damage or cost as if it were a result of his or her fault.

## 5 Liability of other ships

- (1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship (other than a ship to which Article 4 applies), then (except as otherwise provided by this Part) the owner of the ship shall be liable –
- (a) for any damage caused outside the ship in Jersey by contamination resulting from the discharge or escape;
  - (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimizing any damage so caused in Jersey by contamination resulting from the discharge or escape; and
  - (c) for any damage so caused in Jersey by any measures so taken.
- (2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship (other than a ship to which Article 4 applies) by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Part) the owner of the ship shall be liable –
- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimizing any such damage in Jersey; and
  - (b) for any damage caused outside the ship in Jersey by any measures so taken, and in the subsequent provisions of this Part any such threat is referred to as a relevant threat of contamination.
- (3) Where –
- (a) as a result of any occurrence, a liability is incurred under this Article by the owner of each of 2 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 Article.
- (4) Where a person is liable under this Article for any damage or cost that is not a result of the person's fault, Article 4 of the [Law Reform \(Miscellaneous Provisions\) \(Jersey\) Law 1960](#) shall apply in respect of the damage or cost as if it were a result of his or her fault.
- (5) In this Article, "ship" includes a vessel that is not seagoing.

## 6 Exceptions from liability under Articles 4 and 5

No liability shall be incurred by the owner of a ship under either of Articles 4 and 5 by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he or she proves that the discharge or escape or (as the case may be) the threat of contamination –

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

## **7 Restriction of liability**

- (1) This Article applies where, as a result of any occurrence –
  - (a) any oil is discharged or escapes from a ship (whether it is a ship to which Article 4 or a ship to which Article 5 applies); or
  - (b) there arises a relevant threat of contamination.
- (2) Where this Article applies, whether or not the owner of the ship in question incurs a liability under either of Articles 4 and 5 –
  - (a) he or she shall not be liable otherwise than under that Article for any such damage or cost as is mentioned in it; and
  - (b) no person to whom paragraph (3) refers shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by the person 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.
- (3) The persons to whom this paragraph refers are –
  - (a) any servant or agent of the owner of the ship;
  - (b) any other person employed or engaged in any capacity on board the ship or to perform any service for the ship;
  - (c) any charterer, or bareboat charterer, of the ship (however he or she is described);
  - (d) any manager or operator of the ship;
  - (e) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
  - (f) any person taking any measure mentioned in Article 4(1)(b) or (2)(a), or in Article 5(1)(b) or (2)(a); and
  - (g) any servant or agent of a person to whom paragraph (1) applies by reason of any of sub-paragraphs (c), (d), (e) and (f) of this paragraph.
- (4) The liability of the owner of a ship under either of Articles 4 and 5 for any impairment of the environment shall be treated as being a liability only in respect of –
  - (a) any resulting loss of profits; and
  - (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

## 8 Limitation of liability

- (1) Where, as a result of any occurrence, the owner of a ship incurs liability under Article 4 by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to paragraph (3)) –
  - (a) the owner may limit that liability in accordance with the provisions of this Part; and
  - (b) if he or she does so, his or her liability (being the aggregate of his or her liabilities under Article 4 resulting from the occurrence) shall not exceed the relevant amount.
- (2) In paragraph (1), “the relevant amount” means –
  - (a) in respect of a ship not exceeding 5,000 tons, 4.51 million special drawing rights;
  - (b) in respect of a ship exceeding 5,000 tons, 4.51 million special drawing rights together with an additional 631 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 89.77 million special drawing rights.
- (3) The Minister may by Order amend an amount or a volume of tonnage in paragraph (2) to give effect to any amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.
- (4) Paragraph (1) shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in Article 4 or recklessly and in the knowledge that any such damage or cost would probably result.
- (5) For the purposes of this Article, a ship’s tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an Order made by the Minister.
- (6) Any such Order shall, so far as it appears to the Minister to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969.

## 9 Limitation actions

- (1) Where the owner of a ship has or is alleged to have incurred a liability under Article 4, he or she may apply to the court for the limitation of that liability to an amount determined in accordance with Article 8.
- (2) If on such an application the court finds that the applicant has incurred such a liability and is entitled to limit it, the court shall after determining the limit of the liability and directing payment into court of the amount of that limit –
  - (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
  - (b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this Article.
- (3) A payment into court of the amount of a limit determined in pursuance of this Article shall be made in sterling, and –
  - (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum

in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for –

- (i) the day on which the determination is made, or
  - (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
- (b) a certificate given by or on behalf of the Treasury of the United Kingdom stating –
- (i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or
  - (ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day that is the last day for which a sum has been so fixed before the day on which the determination was made,

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

- (c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be treated as being such a certificate.
- (4) No claim shall be admitted in proceedings under this Article unless it is made within such time as the court may direct or such further time as the court may allow.
- (5) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends –
- (a) by the owner or the persons referred to in Article 16 as “the insurer”; or
  - (b) by a person who has or is alleged to have incurred a liability, otherwise than under Article 4, for the damage or cost and who is entitled to limit his or her liability in connection with the ship by virtue of either of Articles 119 and 120 of the [Shipping \(Jersey\) Law 2002](#),

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this Article as the person to whom it was paid would have been.

- (6) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended, the person shall be in the same position with respect to any distribution made in proceedings under this Article as if he or she had a claim in respect of the liability equal to the cost of the sacrifice or other measures.
- (7) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it thinks appropriate having regard to any claims that may later be established before a court of any country outside Jersey.
- (8) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with paragraph (2)(b).

## 10 Restrictions on enforcement

- (1) This Article applies where –

- (a) the court has found that a person who has incurred a liability under Article 4 is entitled to limit that liability to any amount;
  - (b) the person has paid into court a sum not less than that amount; and
  - (c) the sum paid into court, or such part of it as corresponds to the claim, will be available to the claimant or would have been available to him or her if the proper steps in the proceedings under Article 9 had been taken.
- (2) Where this Article applies –
- (a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
  - (b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs.

## 11 Concurrent liability of owners and others

- (1) This Article applies where –
- (a) as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under Article 4;
  - (b) any other person incurs a liability (otherwise than under that Article) for any such damage or cost as is mentioned in paragraph (1) or paragraph (2) of that Article;
  - (c) the owner has been found, in proceedings under Article 9 to be entitled to limit his or her liability to any amount and has paid into court a sum not less than that amount; and
  - (d) the other person is entitled to limit his or her liability in connection with the ship by virtue of either of Articles 119 and 120 of the [Shipping \(Jersey\) Law 2002](#).
- (2) Where this Article applies –
- (a) no proceedings shall be taken against the other person in respect of his or her liability; and
  - (b) if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in respect of costs.

## 12 Concurrent liability outside Jersey

Where the events resulting in the liability of any person under Article 4 also resulted in a corresponding liability under the law of another Liability Convention country, Articles 10 and 11 shall apply as if the references to Articles 4 and 9 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

## 13 Extinguishment of liability claims

No action to enforce a claim in respect of a liability incurred under Article 4 or 5 shall be entertained by any court in Jersey unless the action is commenced not later than 3 years after the claim arose nor later than 6 years after the occurrence or first of the occurrences

resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

#### **14 Compulsory insurance**

- (1) Subject to the provisions of this Part in respect of Government ships, paragraph (2) shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in an Order made by the Minister.
- (2) The ship shall not –
  - (a) enter or leave a port in Jersey;
  - (b) arrive at or leave a terminal in the territorial sea adjacent to Jersey; or,
  - (c) if the ship is registered in Jersey, a port in any other country or a terminal in the territorial sea of any other country,unless there is in force a certificate complying with paragraph (3) and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).
- (3) The insurance certificate must be –
  - (a) if the ship is a ship registered in Jersey, issued by the Minister;
  - (b) if the ship is registered in a Liability Convention country other than Jersey, issued by or under the authority of the government of the other Liability Convention country; and
  - (c) if the ship is registered in a country that is not a Liability Convention country, issued by the Minister or by or under the authority of the government of any Liability Convention country other than Jersey.
- (4) Any insurance certificate required by this Article 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 a customs 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 paragraph (2), the master or owner shall be guilty of an offence and liable to a fine.
- (6) If a ship fails to carry, or the master of a ship fails to produce, an insurance certificate as required by paragraph (4), the master shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (7) If a ship attempts to leave a port in Jersey in contravention of this Article, the ship may be detained.

#### **15 Issue of insurance certificate by Minister**

- (1) If the Minister is satisfied, on the application for an insurance certificate in respect of a ship registered in Jersey or in any country that is not a Liability 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 VII of the Liability Convention, the Minister shall issue the certificate to the owner.
- (2) But if the Minister doubts whether the person providing the insurance or other security will be able to meet his or her obligations under it, or whether the

insurance or other security will cover the owner's liability under Article 4 in all circumstances, the Minister may refuse to issue the insurance certificate.

- (3) The States may make Regulations providing for the cancellation and delivery up of an insurance certificate under this Article in such circumstances as may be prescribed by the Regulations.
- (4) If a person required by Regulations under paragraph (3) to deliver up an insurance certificate fails to do so, he or she shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (5) The Minister shall send a copy of any insurance certificate issued under this Article in respect of a ship registered in Jersey to the Registrar of Shipping appointed under Article 188 of the [Shipping \(Jersey\) Law 2002](#).
- (6) The Registrar shall make the copy available for public inspection.

## 16 Rights of third parties against insurers

- (1) Where it is alleged that the owner of a ship has incurred a liability under Article 4 as a result of any discharge or escape of 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 an insurance certificate related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in this Article referred to as "the insurer").
- (2) In any proceedings brought against the insurer by virtue of this Article, it shall be a defence 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 personally.
- (3) The statutory defence in paragraph (2) is in addition to any defence affecting the owner's liability.
- (4) The insurer may limit his or her liability in respect of claims made against the insurer by virtue of this Article in like manner and to the same extent as the owner may limit his or her liability, 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 anything done or omitted to be done by the owner as mentioned in Article 8(4).
- (5) Where the owner and the insurer each applies to the court for the limitation of his or her liability, any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.
- (6) The Third Party (Rights against Insurers) (Jersey) Law 1948 shall not apply in respect of any contract of insurance to which an insurance certificate relates.

## 17 Jurisdiction of Jersey courts

- (1) This Article applies where –
  - (a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in Jersey, and no measures are reasonably taken to prevent or minimize such damage in Jersey; or
  - (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimize such damage in Jersey.
- (2) Where this Article applies no court in Jersey shall entertain any action (whether *in rem* or *in personam*) to enforce a claim arising from any relevant damage or cost –

- (a) against the owner of the ship; or
  - (b) against any person to whom Article 7(3) refers, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.
- (3) Article 7(3)(f) shall have effect for the purposes of paragraph (2)(b) of this Article as if Article 7(3)(f) referred to any person taking any such measures as are mentioned in paragraph (5)(a) or (b) of this Article.
- (4) Part 2 of the 1960 Law shall apply, whether or not it would so apply apart from this Article, to 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 Article 4; and in its application to such a judgment that Part shall have effect with the omission of Article 6(2) and (3) of that Law.
- (5) In paragraph (2), “relevant damage or cost” means –
- (a) in respect of any such discharge or escape as is mentioned in paragraph (1)(a), any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimize such damage in the territory of another Liability Convention country;
  - (b) in respect of any such threat of contamination as is mentioned in paragraph (1)(b), any cost incurred in taking measures to prevent or minimize such damage in the territory of another Liability Convention country; or
  - (c) any damage caused by any measures taken as mentioned in either of subparagraphs (a) and (b) of this paragraph.

## 18 Government ships

- (1) Nothing in the preceding provisions of this Part applies in respect of any warship or any ship for the time being used by the government of any State for other than commercial purposes.
- (2) A ship owned by a State and for the time being used for commercial purposes complies sufficiently with Article 14(2) if there is in force a certificate issued by the government of that State and showing that –
- (a) the ship is owned by that State; and
  - (b) any liability for pollution damage as defined in Article 1 of the Liability Convention will be met up to the limit prescribed by Article V of the Liability Convention.
- (3) For the purposes of any proceedings brought in a court in Jersey to enforce a claim in respect of a liability incurred under Article 4, every Liability Convention State shall be taken to have submitted to the jurisdiction of that court.
- (4) Accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in paragraph (3) shall authorize the issue of execution against the property of any State.

## 19 Limitation of liability under Article 5

For the purposes of Article 119 of the [Shipping \(Jersey\) Law 2002](#), any liability incurred under Article 5 shall be treated as being 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.

## **20 Recourse actions**

Nothing in this Part shall prejudice any claim, or the enforcement of any claim, that a person incurring any liability under this Part may have against another person in respect of that liability.

# **PART 3**

## **THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND**

### **21 Contributions to the Fund and to the Supplementary Fund**

- (1) Contributions shall be payable to the Fund and to the Supplementary Fund in respect of oil carried by sea to ports or terminal installations in Jersey otherwise than on a voyage only within waters landward of the baselines for measuring the breadth of the territorial sea adjacent to Jersey.
- (2) Paragraph (1) applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.
- (3) Contributions shall also be payable –
  - (a) to the Fund in respect of oil when first received in any installation in Jersey after having been carried by sea and discharged in a port or terminal installation in a country that is not a Fund Convention country; and
  - (b) to the Supplementary Fund in respect of oil when first received in any installation in Jersey after having been carried by sea and discharged in a port or terminal installation in a country that is not a Supplementary Fund Protocol country.
- (4) The person liable to pay contributions is –
  - (a) in the case of oil that is being imported into Jersey, the importer; and
  - (b) in any other case, the person by whom the oil is received.
- (5) A person shall not be liable to make contributions in respect of the oil imported or received by him or her in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.
- (6) For the purpose of paragraph (5) –
  - (a) all the members of a group of companies shall be treated as a single person; and
  - (b) any 2 or more companies that have been amalgamated into a single company shall be treated as being the same person as that single company.
- (7) The contributions payable by a person for any year –
  - (a) shall be of such amount as may be determined –
    - (i) in the case of contributions to the Fund, by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund,

- (ii) in the case of contributions to the Supplementary Fund, by the Director of the Supplementary Fund under Article 11 of the Supplementary Fund Protocol and notified to that person by the Supplementary Fund;
  - (b) shall be payable in such instalments, becoming due at such times, as may be so notified by the Director determining the amount,  
and if any amount due from the first person remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund or the Assembly of the Supplementary Fund (as the case may be), until it is paid.
- (8) The States may by Regulations impose on persons who are or may be liable to pay contributions under this Article, obligations to give security for payment to the States, or to the Fund.
- (9) Regulations under paragraph (8) –
  - (a) may contain such supplemental or incidental provisions as appear to the States expedient; and
  - (b) may provide that a contravention of this Article shall be an offence punishable on conviction by a fine of level 3 on the standard scale.<sup>2</sup>
- (10) In this Article –
  - “group”, when used in respect of companies, means –
    - (a) a company that is a holding body as defined by Article 2(3) of the [Companies \(Jersey\) Law 1991](#); and
    - (b) the subsidiaries, as defined by that Article, of that company,  
subject, in the case of a company incorporated outside Jersey, to any necessary modifications of those definitions;
  - “importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation;
  - “terminal installation” means any site for the storage of oil in bulk that is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

## 22 Power to obtain information

- (1) For the purpose of transmitting to the Fund or the Supplementary Fund the names and addresses of the persons who under Article 21 are liable to make contributions to the Fund or the Supplementary Fund for any year, and the quantity of oil in respect of which they are so liable, the Minister may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.
- (2) A notice under this Article may require a company to give such information as may be required to ascertain whether its liability is affected by Article 21(6).
- (3) A notice under this Article may specify the way in which it is to be complied with, and the time within which it is to be complied with.
- (4) In proceedings by the Fund or the Supplementary Fund against any person to recover any amount due under Article 21, particulars contained in any list transmitted by the Minister to either of those Funds shall, so far as those particulars are based on information obtained under this Article, be admissible as evidence of

the facts stated in the list; and so far as particulars that are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

- (5) If a person discloses any information that has been furnished to or obtained by the person under this Article, or in connection with the execution of this Article, then, unless the disclosure is made –
- (a) with the consent of the person from whom the information was obtained;
  - (b) in connection with the execution of this Article; or
  - (c) for the purposes of any legal proceedings arising out of this Article or of any report of such proceedings,

the first person shall be guilty of an offence and liable to a fine of level 3 on the standard scale.<sup>3</sup>

- (6) A person who –
- (a) refuses or wilfully neglects to comply with a notice under this Article; or
  - (b) in furnishing any information in compliance with a notice under this Article makes any statement that he or she knows to be false in a material particular, or recklessly makes any statement that is false in a material particular,

shall be guilty of an offence and liable to a fine and to imprisonment for a term of 12 months.

## 23 Liability of the Fund

- (1) The Fund shall be liable for pollution damage in Jersey if the person suffering the damage has been unable to obtain full compensation under Article 4 –
- (a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused –
    - (i) resulted from an exceptional, inevitable and irresistible phenomenon,
    - (ii) was due wholly to anything done or omitted to be done by another person (not being a servant or agent of the owner) with intent to do damage, or
    - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible,and because liability is accordingly wholly displaced by Article 6;
  - (b) because the owner or guarantor liable for the damage cannot meet his or her obligations in full; or
  - (c) because the damage exceeds the liability under Article 4 as limited by Article 8.
- (2) Paragraph (1) shall apply in respect of pollution damage in a Fund Convention country, as it applies in respect of pollution damage in Jersey, where –
- (a) the incident has caused pollution damage in Jersey and in the territory of another Fund Convention country; and
  - (b) proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country that is not a Fund Convention country or in Jersey.

- (3) Where the incident has caused pollution damage in Jersey and in the territory of another country in respect of which the Liability Convention is in force, references in this Article to the provisions of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.
- (4) For the purposes of this Article, an owner or guarantor is to be treated as incapable of meeting his or her obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.
- (5) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimize pollution damage shall be treated as pollution damage for the purposes of this Article, and accordingly the owner shall be in the same position with respect to claims against the Fund under this Article as if he or she had a claim in respect of liability under Article 4.
- (6) The Fund shall incur no obligation under this Article if –
  - (a) the Fund proves that the pollution damage resulted from an act of war, hostilities, civil war or insurrection;
  - (b) the Fund proves that the pollution damage was caused by oil that has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service; or
  - (c) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by the claimant, or involving 2 or more ships one of which is identified by the complainant.
- (7) If the Fund proves that the pollution damage resulted wholly or partly –
  - (a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage; or
  - (b) from the negligence of that person,the Fund may (subject to paragraph (9)) be exonerated wholly or partly from its obligations to pay compensation to that person.
- (8) Where the liability under Article 4 in respect of the pollution damage is limited to any extent by paragraph (8) of that Article, the Fund shall (subject to paragraph (9)) be exonerated to the same extent.
- (9) Paragraphs (7) and (8) shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

## **24 Limitation of the Fund's liability**

- (1) The Fund's liability under Article 23 shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund and the text of which is set out in Schedule 1), and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Part.
- (2) A certificate given by the Director of the Fund stating that sub-paragraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under Article 23 shall be conclusive evidence for the purposes of this Part that it is so applicable.

- (3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention, a court giving judgment against the Fund in proceedings under Article 23 shall notify the Fund, and –
- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it;
  - (b) leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount; and
  - (c) in the latter case the judgment shall be enforceable only for the reduced amount.
- (4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in paragraph (3) shall be steps to obtain payment in sterling; and –
- (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for –
    - (i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident, or
    - (ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and
  - (b) a certificate given by or on behalf of the Treasury of the United Kingdom stating –
    - (i) that a particular sum in sterling has been so fixed for the relevant day, or
    - (ii) that no sum has been so fixed for the relevant day and that a particular sum in sterling has been so fixed for a day that is the last day for which a sum has been so fixed before the relevant day,shall be conclusive evidence of those matters for the purposes of this Part.
- (5) The Minister may by Order amend an amount in Schedule 1 to give effect to any amendment of the Fund Convention in respect of the limits imposed by either of paragraphs 4 and 5 of Article 4 of the Fund Convention.
- (6) Any document purporting to be such a certificate as is mentioned in either of paragraphs (2) and (4)(b) shall in any legal proceedings be received in evidence and, unless the contrary is proved, treated as being such a certificate.

## **25 Liability of the Supplementary Fund**

- (1) The Supplementary Fund shall be liable for pollution damage in Jersey in accordance with the Supplementary Fund Protocol in the circumstances mentioned in paragraph 1 of Article 4 of that Protocol (which relates to cases where full compensation cannot be obtained because of the limit imposed by paragraph 4 of Article 4 of the Fund Convention).
- (2) The text of paragraph 1 of Article 4 of the Supplementary Fund Protocol is set out in Schedule 2.

- (3) Paragraph (1) shall apply in respect of pollution damage in a Supplementary Fund Protocol country, as it applies in respect of pollution damage in Jersey, where –
  - (a) the headquarters of the Supplementary Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention or the Fund Convention for compensation for the pollution damage have been brought in a country that is not a Supplementary Fund Protocol country; or
  - (b) the incident has caused pollution damage in Jersey and in the territory of another Supplementary Fund Protocol country, and proceedings under the Liability Convention or the Fund Convention for compensation for the pollution damage have been brought in a country that is not a Supplementary Fund Protocol country or in Jersey.
- (4) Nothing in this Article applies to pollution damage resulting from an incident if –
  - (a) in the case of a single occurrence, it took place before the day on which the Supplementary Fund Protocol enters into force in respect of Jersey; or
  - (b) in the case of a series of occurrences having the same origin, the first of those occurrences took place before that day.

## **26 Limitation of the Supplementary Fund's liability under Article 25**

- (1) The Supplementary Fund's liability under Article 25 shall be subject to –
  - (a) paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (which impose an overall limit on the liabilities of the Supplementary Fund); and
  - (b) paragraphs 2 and 3 of Article 15 of the Supplementary Fund Protocol (which prevent the Supplementary Fund from paying compensation temporarily and permanently where obligations to communicate information to the Director under paragraph 1 of Article 13 and paragraph 1 of Article 15 have not been met).
- (2) The text of paragraphs 2 and 3 of Article 4, paragraph 1 of Article 13 and paragraphs 1, 2 and 3 of Article 15 of the Supplementary Fund Protocol is set out in Schedule 2.
- (3) For the purpose of giving effect to paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol a court giving judgment against the Supplementary Fund in proceedings under Article 25 shall notify the Supplementary Fund; and –
  - (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it;
  - (b) that leave shall not be given unless and until the Supplementary Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount; and
  - (c) in the latter case the judgment shall be enforceable only for the reduced amount.
- (4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in paragraph (2) shall be steps to obtain payment in sterling; and –
  - (a) for the purpose of converting such an amount from special drawing rights into sterling, one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for –

- (i) the relevant date, namely the date referred to in paragraph 2(b) of Article 4 of the Supplementary Fund Protocol, or
    - (ii) if no sum has been so fixed for the relevant date, the last day before that date for which a sum has been so fixed; and
  - (b) a certificate given by or on behalf of the Treasury of the United Kingdom stating –
    - (i) that a particular sum in sterling has been so fixed for the relevant date, or
    - (ii) that no sum has been so fixed for the relevant date and that a particular sum in sterling has been so fixed for a day that is the last day for which a sum has been so fixed before the relevant date,
- shall be conclusive evidence of those matters for the purposes of this Part.
- (5) Any document purporting to be such a certificate as is mentioned in paragraph (4)(b) shall in any legal proceedings be received in evidence and, unless the contrary is proved, be treated as being such a certificate.

## **27 Jurisdiction in respect of the Fund and the Supplementary Fund**

- (1) Where, in accordance with rules of court made for the purposes of this paragraph, the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under Article 4 –
- (a) the notice shall be treated as having been given to the Supplementary Fund as well; and
  - (b) after any judgment given in the proceedings has become final and enforceable, the facts and evidence in the judgment may not be disputed by the Fund or the Supplementary Fund even if it has not intervened in the proceedings.
- (2) Where a person incurs a liability under the law of a Fund Convention country corresponding to this Part for damage that is partly in Jersey, paragraph (1) shall for the purpose of proceedings under this Part apply with any necessary modifications to a judgment in proceedings under that law of the first country.
- (3) Subject to paragraphs (4), (5), (6) and (7), Part 2 of the 1960 Law shall apply (whether or not it would apply apart from this paragraph) to –
- (a) any judgment given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to Article 23; and
  - (b) any judgment given by a court in a Supplementary Fund Protocol country to enforce a claim in respect of liability incurred under any provision corresponding to Article 25.
- (4) In its application to such a judgment, Part 2 of the 1960 Law shall have effect with the omission of Article 6(2) and (3) of that Law.
- (5) No steps shall be taken to enforce such a judgment unless and until the court in which it is registered under Part 2 of the 1960 Law gives leave to enforce it.
- (6) Leave shall not be given unless and until –
- (a) in the case of a judgment mentioned in paragraph (3)(a), the Fund notifies the court either that the amount of the claim is not to be reduced under

- paragraphs 4 and 5 of Article 4 of the Fund Convention (as set out in Schedule 1) or that it is to be reduced to a specified amount; or
- (b) in the case of a judgment mentioned in paragraph (3)(b), the Supplementary Fund notifies the court either that the amount of the claim is not to be reduced under paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (as set out in Schedule 2) or that it is to be reduced to a specified amount.
- (7) Where the court is notified that a claim is to be reduced to a specified amount, the judgment shall be enforceable only for the reduced amount.
- (8) The powers of the Superior Number of the Royal Court to make rules under the [Royal Court \(Jersey\) Law 1948](#) shall include power to make rules for the purposes of this Law.

## 28 Extinguishing of claims against the Fund and the Supplementary Fund

- (1) No action to enforce a claim against the Fund or the Supplementary Fund under this Part shall be entertained by a court in Jersey unless –
- (a) the action is commenced; or
  - (b) a third party notice (that is to say, a notice of the kind described in Article 27(1)) of an action to enforce a claim against the owner or his or her guarantor in respect of the same damage is given to the Fund or (as the case may be) the Supplementary Fund,
- not later than 3 years after the damage occurred.
- (2) No action to enforce a claim against the Fund or the Supplementary Fund under this Part shall be entertained by a court in Jersey unless the action is commenced not later than 6 years after the occurrence, or first of the occurrences, resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the claim against the Fund or (as the case may be) the Supplementary Fund arose.
- (3) For the purposes of this Article –
- (a) a person who commences an action to enforce a claim against the Fund in respect of any damage shall be treated as having also commenced an action to enforce any claim that he or she may have against the Supplementary Fund in respect of that damage; and
  - (b) a person who gives a third party notice to the Fund in respect of any damage mentioned in paragraph (1)(b) shall be taken to have also given a notice to the Supplementary Fund in respect of that damage.

## 29 Subrogation

- (1) In respect of any sum paid by the Fund as compensation for pollution damage, the Fund shall acquire by subrogation any rights in respect of the damage that the recipient has (or but for the payment would have) against any other person.
- (2) In respect of any sum paid by the Supplementary Fund as compensation for pollution damage, the Supplementary Fund shall acquire by subrogation any rights in respect of the damage that the recipient has (or but for the payment would have) against any other person.

- (3) In respect of any sum paid by a public authority in Jersey as compensation for pollution damage, that authority shall acquire by subrogation any rights that the recipient has against the Fund or the Supplementary Fund under this Part.

### **30 Proceedings against the Fund and the Supplementary Fund**

- (1) Any proceedings by or against the Fund or the Supplementary Fund may be instituted –
  - (a) by or against it in its own name; or
  - (b) by or against its Director as its representative.
- (2) Evidence of –
  - (a) any instrument issued by any organ of the Fund or Supplementary Fund;
  - (b) any document in the custody of the Fund or Supplementary Fund; or
  - (c) any entry in or extract from such a document,may be given in any legal proceedings by production of a copy certified as a true copy by one of its officials.
- (3) A document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

## **PART 4**

### **OTHER PROVISIONS**

### **31 Offences**

- (1) For the purpose of conferring jurisdiction, any offence under this Law shall be treated as having been committed in any place in Jersey where the offender may for the time being be.
- (2) For the same purpose, any matter of complaint under this Law shall be treated as having arisen in any place in Jersey where the person complained against may for the time being be.
- (3) The jurisdiction under paragraphs (1) and (2) shall be in addition to and not in derogation from any jurisdiction or power of a court under any other enactment.

### **32 Offences on ships**

- (1) This Article applies to –
  - (a) a person charged with having committed an offence under this Law on board a ship on the high seas that is registered in Jersey;
  - (b) a person who is a British citizen charged with having committed an offence under this Law in any foreign port or harbour.
- (2) If a person to whom this Article applies is found in Jersey, a court that would have had jurisdiction in respect of the offence if it had been committed on board a ship registered in Jersey within the limits of its ordinary jurisdiction to try the offence shall have jurisdiction to try the offence if it has been so committed.

### 33 Detention of ships

- (1) A ship that may be detained under this Law may be detained by –
  - (a) the Harbour Master (within the meaning given in Article 1 of the [Harbours \(Administration\) \(Jersey\) Law 1961](#));
  - (b) a States' employee (within the meaning of the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#)) who is for the time being authorized in writing for that purpose by the Minister;
  - (c) a customs officer;
  - (d) a fishery officer (within the meaning given in Article 1(1) of the [Sea Fisheries \(Jersey\) Law 1994](#)); or
  - (e) a commissioned officer of Her Majesty's land forces or Her Majesty's navy on full pay.
- (2) If a ship –
  - (a) that has been detained; or
  - (b) in respect of which notice of detention has been served on the master, proceeds to sea before it is released by a person mentioned in paragraph (1), the master of the ship shall be guilty of an offence and liable to a fine.
- (3) The owner of a ship, and any person who sends to sea a ship in respect of which an offence is committed under paragraph (2) shall, if party to the offence, also be guilty of an offence under that paragraph and liable accordingly.
- (4) Where a ship proceeding to sea in contravention of paragraph (2) takes to sea a person mentioned in paragraph (1) who is on board the ship in the execution of his or her duty, the owner and master of the ship shall each –
  - (a) be liable to pay all expenses of and incidental to the person being so taken to sea; and
  - (b) be guilty of an offence and liable to a fine.
- (5) Where under this Law a ship is to be detained, a customs officer shall, refuse to clear the ship outwards or grant a transire to the ship.
- (6) Where under this Law a ship may be detained, a customs officer may refuse to clear the ship outwards or grant a transire to the ship.

### 34 Exemption from taxes and duties

- (1) The income of the Fund or the Supplementary Fund shall not be liable to income tax under the [Income Tax \(Jersey\) Law 1961](#).
- (2) Subject to compliance with such conditions as the Agent of the Impôts may determine, no duty shall be charged under the [Customs and Excise \(Jersey\) Law 1999](#) in respect of any goods imported or exported by the Fund or the Supplementary Fund for the purpose of exercising any of their functions under this Law.
- (3) Subject to compliance with such conditions as the Comptroller of Revenue may determine, any goods and services tax otherwise payable on the supply of goods or services under the [Goods and Services Tax \(Jersey\) Law 2007](#) necessary for the purpose of enabling the Fund or Supplementary Fund to exercise any of their functions under this Law shall not be payable, and if paid shall be refunded.<sup>4</sup>

**35 Regulations**

- (1) The States may by Regulations modify this Law to give effect to any international agreement that relates to compensation for oil pollution from ships, so far as that agreement modifies or replaces the whole or any part of the Liability Convention, the Fund Convention or the Supplementary Fund Protocol.
- (2) Regulations made under this Article may not without the concurrence of a Secretary for State make provision taking effect before ratification by the United Kingdom of the international agreement to which they relate.

**36 Citation**

This Law may be cited as the Shipping (Oil Pollution) (Liability and Compensation) (Jersey) Law 2015.

**SCHEDULE 1**

(Article 24(1))

**THE FUND CONVENTION 1992: ARTICLE 4, PARAGRAPHS 4 AND 5**

## OVERALL LIMIT ON LIABILITY OF FUND

## PART I

## PERMANENT PROVISION

## Article 4 – paragraphs 4 and 5

4.
  - (a) Except as otherwise provided in sub-paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 203 million units of account.
  - (b) Except as otherwise provided in sub-paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 203 million units of account.
  - (c) The maximum amount of compensation referred to in sub-paragraphs (a) and [(b)] shall be 300.74 million units of account with respect to any incident occurring during any period when there are 3 Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.
  - (d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.
  - (e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.
5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

## SCHEDULE 2

(Article 25(2) and 26(2))

### THE SUPPLEMENTARY FUND PROTOCOL 2003: ARTICLE 4, PARAGRAPHS 1, 2 AND 3

#### SUPPLEMENTARY FUND LIABILITY

##### Article 4 – paragraphs 1, 2 and 3

1. The Supplementary Fund shall pay compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for an established claim for such damage under the terms of the 1992 Fund Convention, because the total damage exceeds, or there is a risk that it will exceed, the applicable limit of compensation laid down in article 4, paragraph 4, of the 1992 Fund Convention in respect of any one incident.
2.
  - (a) The aggregate amount of compensation payable by the Supplementary Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount together with the amount of compensation actually paid under the 1992 Liability Convention and the 1992 Fund Convention within the scope of application of this Protocol shall not exceed 750 million units of account.
  - (b) The amount of 750 million units of account mentioned in paragraph 2(a) shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date determined by the Assembly of the 1992 Fund for conversion of the maximum amount payable under the 1992 Liability and 1992 Fund Conventions.
3. Where the amount of established claims against the Supplementary Fund exceeds the aggregate amount of compensation payable under paragraph 2, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Protocol shall be the same for all claimants.

##### Article 13 – paragraph 1

1. Contracting States shall communicate to the Director of the Supplementary Fund information on oil receipts in accordance with article 15 of the 1992 Fund Convention provided, however, that communications made to the Director of the 1992 Fund under article 15, paragraph 2, of the 1992 Fund Convention shall be deemed to have been made also under this Protocol.

##### Article 15 – paragraphs 1, 2 and 3

1. If in a Contracting State there is no person meeting the conditions of article 10, that Contracting State shall for the purposes of this Protocol inform the Director of the Supplementary Fund thereof.
2. No compensation shall be paid by the Supplementary Fund for pollution damage in the territory, territorial sea or exclusive economic zone or area determined in accordance with article 3(a)(ii), of this Protocol, of a Contracting State in respect of a given incident or for preventive measures, wherever taken, to prevent or

minimize such damage, until the obligations to communicate to the Director of the Supplementary Fund according to article 13, paragraph 1 and paragraph 1 of this article have been complied with in respect of that Contracting State for all years prior to the occurrence of that incident. The Assembly shall determine in the Internal Articles the circumstances under which a Contracting State shall be considered as having failed to comply with its obligations.

3. Where compensation has been denied temporarily in accordance with paragraph 2, compensation shall be denied permanently in respect of that incident if the obligations to communicate to the Director of the Supplementary Fund under article 13, paragraph 1 and paragraph 1 of this article, have not been complied with within one year after the Director of the Supplementary Fund has notified the Contracting State of its failure to report.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Shipping (Oil Pollution) (Liability and Compensation) (Jersey) Law 2015	<a href="#">L.8/2015</a>	1 November 2015 ( <a href="#">R&amp;O.126/2015</a> )
Criminal Justice (Miscellaneous Provisions) (Jersey) Regulations 2016	<a href="#">R&amp;O.97/2016</a>	20 September 2016
Revenue Administration (Jersey) Law 2019	<a href="#">L.13/2019</a>	1 January 2020
States of Jersey (Ministerial Offices – Minister for Sustainable Economic Development) Order 2023	<a href="#">R&amp;O.102/2023</a>	24 November 2023

### Table of Renumbered Provisions

Original	Current
36	spent, omitted
37(1)	36
37(2) and (3)	spent, omitted

### Table of Endnote References

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- <sup>1</sup> *Ministerial title revised in accordance with R&O.158/2015, R&O.102/2023*
- <sup>2</sup> *Article 21(9) amended by R&O.97/2016*
- <sup>3</sup> *Article 22(5) amended by R&O.97/2016*
- <sup>4</sup> *Article 34(3) amended by L.13/2019*