



**Isle of Man**

*Ellan Vannin*

AT 20 of 1996

**MERCHANT SHIPPING (MISCELLANEOUS  
PROVISIONS) ACT 1996**





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## MERCHANT SHIPPING (MISCELLANEOUS PROVISIONS) ACT 1996

<i>Received Royal Assent:</i>	<i>9 July 1996</i>
<i>Passed:</i>	<i>9 July 1996</i>
<i>Commenced:</i>	<i>See endnotes</i>

**AN ACT** to make new provision for the carriage of goods by sea; to implement the International Convention on Salvage 1989; to amend enactments relating to safety of life at sea, marine pollution and merchant shipping; and for connected purposes.

### PART 1 – CARRIAGE OF GOODS BY SEA

#### 1 Shipping documents etc to which this Part applies

- (1) This Part applies to the following documents, that is to say —
  - (a) any bill of lading;
  - (b) any sea waybill; and
  - (c) any ship's delivery order.
- (2) References in this Part to a bill of lading —
  - (a) do not include references to a document which is incapable of transfer either by indorsement or, as a bearer bill, by delivery without indorsement; but
  - (b) subject to that, do include references to a received for shipment bill of lading.
- (3) References in this Part to a sea waybill are references to any document which is not a bill of lading but —
  - (a) is such a receipt for goods as contains or evidences a contract for the carriage of goods by sea; and
  - (b) identifies the person to whom delivery of the goods is to be made by the carrier in accordance with that contract.

- (4) References in this Part to a ship's delivery order are references to any document which is neither a bill of lading nor a sea waybill but contains an undertaking which —
- (a) is given under or for the purposes of a contract for the carriage by sea of the goods to which the document relates, or of goods which include those goods; and
  - (b) is an undertaking by the carrier to a person identified in the document to deliver the goods to which the document relates to that person.
- (5) The Department of Economic Development may by regulations make provision for the application of this Part to cases where a telecommunication system or any other information technology is used for effecting transactions corresponding to —
- (a) the issue of a document to which this Part applies;
  - (b) the indorsement, delivery or other transfer of such a document; or
  - (c) the doing of anything else in relation to such a document.<sup>1</sup>
- (6) Regulations under subsection (5) may —
- (a) make such modifications of the following provisions of this Part as the Department considers appropriate in connection with the application of this Part to any case mentioned in that subsection; and
  - (b) contain supplemental, incidental, consequential and transitional provisions.
- (7) Regulations under this section shall not come into operation unless they are approved by Tynwald.

## 2 Rights under shipping documents

- (1) Subject to the following provisions of this section, a person who becomes —
- (a) the lawful holder of a bill of lading;
  - (b) the person who (without being an original party to the contract of carriage) is the person to whom delivery of the goods to which a sea waybill relates is to be made by the carrier in accordance with that contract; or
  - (c) the person to whom delivery of the goods to which a ship's delivery order relates is to be made in accordance with the undertaking contained in the order,

shall (by virtue of becoming the holder of the bill or, as the case may be, the person to whom delivery is to be made) have transferred to and vested in him all rights of suit under the contract of carriage as if he had been a party to that contract.

- (2) Where, when a person becomes the lawful holder of a bill of lading, possession of the bill no longer gives a right (as against the carrier) to possession of the goods to which the bill relates, that person shall not have any rights transferred to him by virtue of subsection (1) unless he becomes the holder of the bill —
- (a) by virtue of a transaction effected in pursuance of any contractual or other arrangements made before the time when such a right to possession ceased to attach to possession of the bill; or
  - (b) as a result of the rejection to that person by another person of goods or documents delivered to the other person in pursuance of any such arrangements.
- (3) The rights vested in any person by virtue of the operation of subsection (1) in relation to a ship's delivery order —
- (a) shall be so vested subject to the terms of the order; and
  - (b) where the goods to which the order relates form a part only of the goods to which the contract of carriage relates, shall be confined to rights in respect of the goods to which the order relates.
- (4) Where, in the case of any document to which this Part applies —
- (a) a person with any interest or right in or in relation to goods to which the document relates sustains loss or damage in consequence of a breach of the contract of carriage; but
  - (b) subsection (1) operates in relation to that document so that rights of suit in respect of that breach are vested in another person,
- the other person shall be entitled to exercise those rights for the benefit of the person who sustained the loss or damage to the same extent as they could have been exercised if they had been vested in the person for whose benefit they are exercised.
- (5) Where rights are transferred by virtue of the operation of subsection (1) in relation to any document, the transfer for which that subsection provides shall extinguish any entitlement to those rights which derives —
- (a) where that document is a bill of lading, from a person's having been an original party to the contract of carriage; or
  - (b) in the case of any document to which this Part applies, from the previous operation of that subsection in relation to that document,
- but the operation of that subsection shall be without prejudice to any rights which derive from a person's having been an original party to the contract contained in, or evidenced by, a sea waybill and, in relation to a ship's delivery order, shall be without prejudice to any rights deriving otherwise than from the previous operation of that subsection in relation to that order.

### 3 Liabilities under shipping documents

- (1) Where section 2(1) operates in relation to any document to which this Part applies and the person in whom rights are vested by virtue of that subsection —
  - (a) takes or demands delivery from the carrier of any of the goods to which the document relates;
  - (b) makes a claim under the contract of carriage against the carrier in respect of any of those goods; or
  - (c) is a person who, at a time before those rights were vested in him, took or demanded delivery from the carrier of any of those goods,that person shall (by virtue of taking or demanding delivery or making the claim or, in a case falling within paragraph (c), of having the rights vested in him) become subject to the same liabilities under that contract as if he had been a party to that contract.
- (2) Where the goods to which a ship's delivery order relates form a part only of the goods to which the contract of carriage relates, the liabilities to which any person is subject by virtue of the operation of this section in relation to that order shall exclude liabilities in respect of any goods to which the order does not relate.
- (3) This section, so far as it imposes liabilities under any contract on any person, shall be without prejudice to the liabilities under the contract of any person as an original party to the contract.

### 4 Representations in bills of lading

A bill of lading which —

- (a) represents goods to have been shipped on board a vessel or to have been received for shipment on board a vessel; and
- (b) has been signed by the master of the vessel or by a person who was not the master but had the express, implied or apparent authority of the carrier to sign bills of lading,

shall, in favour of a person who has become the lawful holder of the bill, be conclusive evidence against the carrier of the shipment of the goods or, as the case may be, of their receipt for shipment.

### 5 Part 1: interpretation etc

- (1) In this Part —

“**bill of lading**”, “**sea waybill**” and “**ship's delivery order**” shall be construed in accordance with section 1;

“**the contract of carriage**” —



- (a) in relation to a bill of lading or sea waybill, means the contract contained in or evidenced by that bill or waybill; and
- (b) in relation to a ship's delivery order, means the contract under or for the purposes of which the undertaking contained in the order is given;

“**holder**”, in relation to a bill of lading, shall be construed in accordance with subsection (2);

“**information technology**” includes any computer or other technology by means of which information or other matter may be recorded or communicated without being reduced to documentary form; and

“**telecommunication system**” has the same meaning as in the *Telecommunications Act 1984*.

- (2) References in this Part to the holder of a bill of lading are references to any of the following persons, that is to say —
  - (a) a person with possession of the bill who, by virtue of being the person identified in the bill, is the consignee of the goods to which the bill relates;
  - (b) a person with possession of the bill as a result of the completion, by delivery of the bill, of any indorsement of the bill or, in the case of a bearer bill, of any other transfer of the bill;
  - (c) a person with possession of the bill as a result of any transaction by virtue of which he would have become a holder falling within paragraph (a) or (b) had not the transaction been effected at a time when possession of the bill no longer gave a right (as against the carrier) to possession of the goods to which the bill relates;

and a person shall be regarded for the purposes of this Part as having become the lawful holder of a bill of lading wherever he has become the holder of the bill in good faith.

- (3) References in this Part to a person's being identified in a document include references to his being identified by a description which allows for the identity of the person in question to be varied, in accordance with the terms of the document, after its issue; and the reference in section 1(3)(b) to a document's identifying a person shall be construed accordingly.
- (4) Without prejudice to sections 2(2) and 4, nothing in this Part shall preclude its operation in relation to a case where the goods to which a document relates —
  - (a) cease to exist after the issue of the document; or
  - (b) cannot be identified (whether because they are mixed with other goods or for any other reason);

and references in this Part to the goods to which a document relates shall be construed accordingly.

- (5) This Part shall have effect without prejudice to the application, in relation to any case, of the rules (the Hague-Visby Rules) which for the time being have the force of law by virtue of section 1 of the *Carriage of Goods by Sea Act 1974*.

## PART 2 – MARINE POLLUTION

### 6 [Inserts section 9A in the *Oil Pollution Act 1986*.]

### 7 Amends *Oil Pollution Act 1986*

[Amends section 14 of the *Oil Pollution Act 1986* as follows: paragraph (a) substitutes in subsection (1) the words from ‘which relates to’ to ‘from ships’; paragraph (b) inserts subsection (1A); paragraph (c) inserts subsection (4)(aa); and paragraph (d) inserts subsections (4A), (4B) and (4C).]

## PART 3 – SALVAGE

### 8 Salvage Convention, 1989 to have force of law

- (1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 1 (in this section and in Part II of that Schedule referred to as ‘the Convention’) shall have the force of law in the Isle of Man.
- (2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and subsection (1) shall have effect subject to the provisions of that Part.
- (3) If it appears to the Council of Ministers that there has been a revision of the Convention, it may by order make such modifications of Schedule 1 as it considers appropriate in consequence of the revision.
- (4) An order under subsection (3) shall not come into operation unless it is approved by Tynwald.
- (5) Nothing in subsection (1) or (2) shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the day on which this section comes into operation.
- (6) This section may be brought into operation before the entry into force of the Convention and as respects any such period any reference in the Convention to a State Party to the Convention shall be read as a reference to the Isle of Man.

- (7) [Amends the *Wreck and Salvage (Ships and Aircraft) Act 1979* as follows: paragraph (a) repeals sections 19 and 20; paragraph (b) substitutes '£5,000' for '£200' in section 23(3) and (4); paragraph (c) inserts section 25(2A); and paragraph (d) adds the second paragraph to section 26.]
- (8) Nothing in subsection (7) shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the day on which that subsection comes into operation.

## PART 4 – SAFETY

### 9 Amends Merchant Shipping Act 1985

[Amends section 1 of the *Merchant Shipping Act 1985* as follows: paragraph (a) adds subsection (1)(c); and paragraph (b) inserts subsection (3A).]

### 10 [Inserts section 2A in the *Merchant Shipping Act 1985*.]

### 11 Amends Shipping Casualties (Inquiries, Investigations and Reports) Act 1979

- (1) [Substitutes section 1 of the *Shipping Casualties (Inquiries, Investigations and Reports) Act 1979*.]
- (2) [Amends section 2 of the *Shipping Casualties (Inquiries, Investigations and Reports) Act 1979* as follows: paragraph (a) substitutes subsections (1) and (1A) for subsection (1); paragraph (b) substitutes subsections (4), (5) and (6) for subsections (4) and (5).]
- (3) [Substitutes section 6 of the *Shipping Casualties (Inquiries, Investigations and Reports) Act 1979*.]
- (4) [Amends section 9 of the *Shipping Casualties (Inquiries, Investigations and Reports) Act 1979* by inserting the words 'and no regulations under this Act' after the expression 'or 8'.]
- (5) [Paragraph (a) repeals section 5 of the *Shipping Casualties (Inquiries, Investigations and Reports) Act 1979*; paragraph (b) repeals entries 17 and 18(a) in Schedule 1 to the *Merchant Shipping Act 1985*; and paragraph (c) is spent.]

## PART 5 – MASTERS AND SEAMEN

**12** [Inserts section 34A in the *Merchant Shipping (Masters and Seamen) Act 1979*.]

**13** **Amends Merchant Shipping Masters and Seamen) Act 1979**

(1) [Substitutes section 22 of the *Merchant Shipping (Masters and Seamen) Act 1979*.]

(2) [Spent]

**14** **Amends Merchant Shipping (Masters and Seamen) Act 1979**

(1) [Substitutes section 23 of the *Merchant Shipping (Masters and Seamen) Act 1979*.]

(2) [Spent]

**15** **Amends Merchant Shipping (Masters and Seamen) Act 1979**

(1) [Amends the *Merchant Shipping (Masters and Seamen) Act 1979* as follows: paragraph (a) repeals in section 1 the words ‘after consultation with the Secretary of State’, wherever they occur; paragraph (b) repeals in section 3(3), the words ‘after consultation with the Secretary of State’; paragraph (c) repeals in section 15A the words ‘after consultation with the Secretary of State’; paragraph (d) repeals in section 36(1) the words ‘after consultation with the Secretary of State’; paragraph (e) substitutes in section 51(1) the word ‘Department’ for the words ‘Secretary of State’; and paragraph (f) repeals in section 67(5) the words ‘after consultation with the Secretary of State’.]

(2)

(a) [Repeals section 3 of the *Merchant Shipping (Masters and Seamen) Act 1979*.]

(b) [Spent]

## PART 6 – MISCELLANEOUS PROVISIONS

**16** **Indemnity**

(1) Subject to the following provisions of this section, the Department of Economic Development shall not, nor shall any member, officer or person acting pursuant to any authority or delegation conferred by the Department, be liable to any action, suit or proceeding for, or in respect of, any act or matter done or omitted to be done in good faith in the

exercise, or purported exercise, of the functions conferred by or under any shipping legislation.<sup>2</sup>

- (2) In subsection (1), “shipping legislation” means —
- (a)
- (i) the *Fishing Vessels (Safety Provisions) (Isle of Man) Act 1974*;
  - (ii) the *Merchant Shipping (Passenger Ships’ Survey) Act 1979*;
  - (iii) the *Merchant Shipping (Detention of Ships) Act 1979*;
  - (iv) the *Merchant Shipping (Masters and Seamen) Act 1979*;
  - (v) the *Anchors and Chain Cables Act 1979*;
  - (vi) the *Merchant Shipping (Load Lines) Act 1981*;
  - (vii) the *Merchant Shipping (Registration) Act 1984*;
  - (viii) the *Merchant Shipping Act 1985*;
  - (ix) Part IV of the *Oil Pollution Act 1986*;
  - (x) the *Merchant Shipping Registration Act 1991*;
  - (xi) the *Merchant Shipping Registration (Amendment) Act 1996*;
  - (xii) this Act;
- (b) any public document made under any of those Acts; and
- (c) any other statutory provision relating directly or indirectly to merchant shipping, whether passed before or after the date on which this section comes into operation.
- (3) This section shall not be treated as affecting the liability of the Department of Economic Development under any statutory provision by reason only that such statutory provision does not fall within subsection (2).<sup>3</sup>
- (4) Where any statutory provision apart from this section expressly provides for —
- (a) the limitation of the liability of the Department of Economic Development in respect of any matter; or<sup>4</sup>
  - (b) the payment of compensation or damages by that Department in respect of any matter,
- this section shall not apply in respect of any such matter.
- (5) Subsection (1) shall not have effect in respect of any act or matter done or omitted to be done before the date on which this section comes into operation.
- (6) [Repeals section 2(5) of the *Merchant Shipping (Registration) Act 1984*.]

## 17 General power to charge fees

- (1) The Department of Economic Development may, with the consent of the Treasury, make regulations prescribing fees to be charged by it in respect of –
  - (a) the registration, survey or inspection of any vessel under any statutory provision;
  - (b) the issue or recording of any certificate, licence or other document under any statutory provision relating to vessels, shipping or pollution of the marine environment;
  - (c) the doing of any other thing in pursuance of any statutory provision relating to vessels, shipping or pollution of the marine environment.<sup>5</sup>
- (2) Regulations under this section shall not come into operation unless they are approved by Tynwald.
- (3) Except in the case of fees which fall to be paid in respect of surveys carried out by persons who are not officers of the Department of Economic Development, all fees received by the Department shall be paid into the General Revenue.<sup>6</sup>
- (4) The enactments mentioned in Schedule 2 are repealed to the extent specified in column 3 of that Schedule.

## 18 Sums ordered to be paid leviable by distress on ship

- (1) Where any court has power to make an order directing payment to be made of any seaman's wages, fines, or other sums of money, then if the person so directed to pay is the master or owner of the ship, and the money directed to be paid is not paid in accordance with the order, the court which made the order may direct the amount remaining unpaid to be levied by distress, of the ship and its equipment.
- (2) The remedy provided by this section is in addition to any other powers for compelling the payment of money ordered to be paid.

## 19 Offences in connection with passenger ships

- (1) A person commits an offence if, in relation to a passenger ship, he does any of the following things, that is to say –
  - (a) if, being drunk or disorderly, he has been on that account refused admission to the ship by the owner or any person in his employment, and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;
  - (b) if, being drunk or disorderly on board the ship, he is requested by the owner or any person in his employment to leave the ship at

any place in the Island at which he can conveniently do so, and, after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request;

- (c) if, on board the ship, after warning by the master or other officer thereof, he molests or continues to molest any passenger;
- (d) if, after having been refused admission to the ship by the owner or any person in his employment on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, he nevertheless persists in attempting to enter the ship;
- (e) if, having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in his employment to leave the ship before it has left that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, he does not comply with that request;
- (f) if, on arriving in the ship at a point to which he has paid his fare, he knowingly and intentionally refuses or neglects to leave the ship; and
- (g) if, on board the ship he fails, when requested by the master or other officer thereof, either to pay his fare or show such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the ship;

but his liability in respect of any such offence shall not prejudice the recovery of any fare payable by him.

- (2) A person commits an offence if, on board any passenger ship he intentionally does or causes to be done anything in such a manner as to —
  - (a) obstruct or damage any part of the machinery or equipment of the ship, or
  - (b) obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.
- (3) The master or other officer of any passenger ship, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against subsection (1) or (2) and whose name and address are unknown to the master or officer, and deliver that person to a constable.
- (4) A person guilty of an offence under subsection (1) or (2) shall be liable, on summary conviction, to a fine not exceeding £1,000.
- (5) If any person commits an offence under subsection (1) or (2) and on the application of the master of the ship, or any other person in the

employment of the owner thereof, refuses to give his name and address, or gives a false name or address, that person shall be liable, on summary conviction, to a fine not exceeding £1,000.

- (6) In this section, 'passenger ship' has the same meaning as in the *Merchant Shipping (Passenger Ships' Survey) Act 1979*.

## **20 Amends Merchant Shipping (Masters and Seamen) Act 1979**

[Amends section 3 of the *Registration of Pleasure Craft Act 1974* by substituting the definition of 'craft'.]

## **21 [Amends the Merchant Shipping (Masters and Seamen) Act 1979 and the Merchant Shipping Act 1985]**

- (1) [Amends section 63 of the *Merchant Shipping (Masters and Seamen) Act 1979* by inserting subsection (1A).]
- (2) [Amends section 5 of the *Merchant Shipping Act 1985* by inserting subsections (3A) and (3B).]

## **22 References to United Kingdom Merchant Shipping legislation**

Where there is a reference in any enactment to any provision of an Act of Parliament which is repealed and re-enacted by way of consolidation in the Merchant Shipping Act 1995 (an Act of Parliament), that reference shall be treated as a reference to the provision as re-enacted unless there is something in the subject or context which is inconsistent therewith.

## **23 Short title and commencement**

- (1) This Act may be cited as the Merchant Shipping (Miscellaneous Provisions) Act 1996.
- (2) This Act shall come into force on such day as the Department of Trade and Industry may by order appoint and different days may be so appointed for different provisions and for different purposes.<sup>7</sup>



**SCHEDULE 1****INTERNATIONAL CONVENTION ON SALVAGE, 1989**

## Section 8

**PART I – TEXT OF CONVENTION****CHAPTER 1- GENERAL PROVISIONS****ARTICLE 1***Definitions*

For the purpose of this Convention –

- (a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.
- (b) Vessel means any ship or craft, or any structure capable of navigation.
- (c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.
- (d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.
- (e) Payment means any reward, remuneration or compensation due under this Convention.
- (f) Organisation means the International Maritime Organisation.
- (g) Secretary-General means the Secretary-General of the Organisation.

**ARTICLE 2***Application of the Convention*

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

## ARTICLE 3

*Platforms and drilling units*

This Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

## ARTICLE 4

*State-owned vessels*

1. Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that State decides otherwise.
2. Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

## ARTICLE 5

*Salvage operations controlled by public authorities*

1. This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.
2. Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.
3. The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

## ARTICLE 6

*Salvage contracts*

1. This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.
2. The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.

3. Nothing in this article shall affect the application of article 7 nor duties to prevent or minimise damage to the environment.

#### ARTICLE 7

##### *Annulment and modification of contracts*

A contract or any terms thereof may be annulled or modified if —

- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

#### CHAPTER II- PERFORMANCE OF SALVAGE OPERATIONS

#### ARTICLE 8

##### *Duties of the salvor and of the owner and master*

1. The salvor shall owe a duty to the owner of the vessel or other property in danger —

- (a) to carry out the salvage operations with due care;
- (b) in performing the duty specified in sub-paragraph (a), to exercise due care to prevent or minimise damage to the environment;
- (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
- (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.

2. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor —

- (a) to co-operate fully with him during the course of the salvage operations;
- (b) in so doing, to exercise due care to prevent or minimise damage to the environment; and
- (c) when the vessel or other property has been brought to a place of safety, to accept re-delivery when reasonably requested by the salvor to do so.

## ARTICLE 9

*Rights of coastal States*

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognised principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

## ARTICLE 10

*Duty to render assistance*

1. Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.
2. The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.
3. The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

## ARTICLE 11

*Co-operation*

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

## CHAPTER III - RIGHTS OF SALVORS

## ARTICLE 12

*Conditions for reward*

1. Salvage operations which have had a useful result give right to a reward.
2. Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.
3. This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

## ARTICLE 13

*Criteria for fixing the reward*

1. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below –

- (a) the salvaged value of the vessel and other property;
- (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
- (c) the measure of success obtained by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
- (f) the time used and expenses and losses incurred by the salvors;
- (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;
- (i) the availability and use of vessels or other equipment intended for salvage operations;
- (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

2. Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.

3. The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

## ARTICLE 14

*Special compensation*

1. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.

2. If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimised damage to the environment, the special

compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30 per cent. of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100 per cent. of the expenses incurred by the salvor.

3. Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).

4. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.

5. If the salvor been negligent and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.

6. Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

## ARTICLE 15

### *Apportionment between salvors*

1. The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.

2. The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

## ARTICLE 16

### *Salvage of persons*

1. No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.

2. A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimising damage to the environment.

## ARTICLE 17

*Services rendered under existing contracts*

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

## ARTICLE 18

*The effect of salvor's misconduct*

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

## ARTICLE 19

*Prohibition of salvage operations*

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

## CHAPTER IV- CLAIMS AND ACTIONS

## ARTICLE 20

*Maritime lien*

1. Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.
2. The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

## ARTICLE 21

*Duty to provide security*

1. Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.
2. Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.

3. The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

## ARTICLE 22

### *Interim payment*

1. The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.

2. In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

## ARTICLE 23

### *Limitation of actions*

1. Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.

2. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.

3. An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

## ARTICLE 24

### *Interest*

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

## ARTICLE 25

### *State-owned cargoes*

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings in rem against, non-commercial cargoes owned by a State and entitled, at



the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

## ARTICLE 26

### *Humanitarian cargoes*

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

## ARTICLE 27

### *Publication of arbitral awards*

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

## **PART II – PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION**

### *Interpretation*

1. In this Part any reference to a numbered article is a reference to the article of the Convention which is so numbered.

### *Claims excluded from Convention*

2. (1) The provisions of the Convention do not apply –
- (a) to a salvage operation which takes place in inland waters of the Island and in which all the vessels involved are of inland navigation; and
  - (b) to a salvage operation which takes place in inland waters of the Island and in which no vessel is involved.

(2) In this paragraph ‘inland waters’ does not include any waters within the ebb and flow of the tide at ordinary spring tides or the waters of any dock which is directly or (by means of one or more other docks) indirectly, connected with such waters.

### *Assistance to persons in danger at sea*

3. (1) The master of a vessel who fails to comply with the duty imposed on him by article 10 paragraph 1 commits an offence and shall be liable –
- (a) on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding £5,000 or to both;

- (b) on conviction on information, to custody for a term not exceeding 2 years or a fine, or both.

(2) Compliance by the master of a vessel with that duty shall not affect his right or the right of any other person to a payment under the Convention or under any contract.

*The reward and special compensation: the common understanding*

4. In fixing a reward under article 13 and assessing special compensation under article 14 the court or arbitrator is under no duty to fix a reward under article 13 up to the maximum salved value of the vessel and other property before assessing the special compensation to be paid under article 14.

*Recourse for life salvage payment*

5. (1) This paragraph applies where —
- (a) services are rendered wholly or in part in Manx waters in saving life from a vessel of any nationality or elsewhere in saving life from any Manx ship; and
- (b) either —
- (i) the vessel and other property are destroyed, or
- (ii) the sum to which the salvor is entitled under article 16, paragraph 2 is less than a reasonable amount for the services rendered in saving life.

(2) Where this paragraph applies, the Department of Economic Development may, if it thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as it thinks fit in respect of the services rendered in saving life.<sup>8</sup>

- (3) In this paragraph ‘Manx ship’ means a ship registered in the Isle of Man.

*Meaning of ‘judicial proceedings’*

6. References in the Convention to judicial proceedings are references to proceedings in the High Court and any reference to the tribunal having jurisdiction (so far as it refers to judicial proceedings) shall be construed accordingly.

*Meaning of ‘State Party’*

7. (1) The Council of Ministers may, for the purposes of this paragraph, by order declare that any State specified in the Order is a party to the Convention in respect of a specified country, and subject to the provisions of any subsequent Order made for those purposes, such an Order shall be conclusive evidence that the State is a party to the Convention in respect of that country.

- (2) In this paragraph ‘country’ includes ‘territory’.

## SCHEDULE 2

### REPEAL OF ENACTMENTS ENABLING THE PRESCRIBING OF FEES

#### Section 17(4)

[Sch 2 repeals the following Acts in part —

Fishing Vessels (Safety Provisions) (Isle of Man) Act 1974

Merchant Shipping (Passenger Ships' Survey) Act 1979

Merchant Shipping (Masters and Seamen) Act 1979

Shipping Casualties (Inquiries, Investigations and Reports) Act 1979

Merchant Shipping (Load Lines) Act 1981

Merchant Shipping Act 1985

Treasury Act 1985

Oil Pollution Act 1986

Merchant Shipping Registration Act 1991]



**ENDNOTES****Table of Legislation History**

Legislation	Year and No	Commencement

**Table of Renumbered Provisions**

Original	Current

**Table of Endnote References**


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<sup>1</sup> Subs (5) amended by SD155/10 Sch 2.

<sup>2</sup> Subs (1) amended by SD155/10 Sch 2.

<sup>3</sup> Subs (3) amended by SD155/10 Sch 2.

<sup>4</sup> Para (a) amended by SD155/10 Sch 2.

<sup>5</sup> Subs (1) amended by SD155/10 Sch 2.

<sup>6</sup> Subs (3) amended by SD155/10 Sch 2.

<sup>7</sup> Subs (2) amended by SD51/97.

ADO (ss 1 to 10, 12 to 23, Sch 1, Sch 2) 1/11/1996 (SD628/96); (s 11) 1/2/2002 (SD814/01).

<sup>8</sup> Subpara (2) amended by SD155/10 Sch 2.