



Maritime and Coastguard Agency

Oil Pollution : Liability and Compulsory Insurance

Notice to all Shipowners, Operators, Managers and masters of merchant vessels carrying more than 2,000 tons of persistent oil in bulk

This notice replaces MSN 1804 (M)

PLEASE NOTE:-

Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

Summary

This Marine Guidance Note:

1. Informs shipowners of revisions to the limits of liability under the 1992 Civil Liability Convention; and
2. Reminds shipowners and masters of the requirement to maintain compulsory insurance against liability for pollution damage.

1 Introduction / Background

1.1 The 1969 Convention was amended by a Protocol in 1992 and is now known as the 1992 Civil Liability Convention.

1.2 The 1992 Civil Liability Convention was implemented in the UK by Chapter III of Part VI of the Merchant Shipping Act 1995.

1.3 The 1992 Civil Liability Convention applies to sea-going ships carrying persistent oil in bulk as cargo. Under the Convention, Shipowners are strictly liable (that is they are liable without the need for proof or fault) for oil pollution damage and owners of ships carrying more than 2,000 tons of persistent oil in bulk are required to maintain insurance or other financial security to cover their liability. Shipowners are in return permitted to limit their liability per incident to amounts calculated under the Convention based on the tonnage of the vessel.

2 Limits of Liability

2.1 Shipowners' limits of liability are specified in terms of Special Drawing Rights (SDRs) of the International Monetary Fund. Shipowners' limits of liability are calculated as follows:

- a) for a ship not exceeding 5,000 units of gross tonnage, 4,510,000 SDR;
- b) for a ship with a tonnage between 5,000 and 140,000 units of tonnage, 4,510,000 SDR plus 631 SDR for each additional unit of tonnage; and
- c) for a ship of 140,000 units of tonnage or over, 89,770,000 SDR.

2.2 The limits of liability contained in the 1992 Civil Liability Convention were increased by 50% on 1st November 2003. The above figures reflect that increase. The amended limits were given effect to in respect of the United Kingdom by the Merchant Shipping (Oil Pollution Compensation Limits) Order 2003 (S.I. 2003/2559).

3. Insurance and State Certification

3.1 Under the 1992 Civil Liability Convention, the owner of a ship registered in a Contracting State and carrying more than 2,000 tons of persistent oil in bulk as cargo must maintain insurance (or other financial security) to cover his liability for pollution damage under the Convention. Insurance must also be in place in respect of any ship, wherever registered, entering or leaving a port or terminal in the territory of a Contracting State. Insurance must be certified by a Contracting State and ships must carry a State issued certificate confirming that the ship is so insured (or covered by other financial security).

3.2 These provisions are implemented by sections 163 and 164 of the Merchant Shipping Act 1995.

(a) A ship may not enter or leave a port in the United Kingdom or arrive at or leave a terminal in the territorial sea unless there is in force a certificate showing that there is in force in respect of the ship a contract of insurance or other financial security in an amount equal to the shipowners limit of liability under the 1992 Civil Liability Convention (section 163(2) of the Merchant Shipping Act 1995).

(b) A United Kingdom ship may not enter or leave a port of any other country or arrive at or leave a terminal in the territorial sea of any other country unless there is in force a certificate showing that there is in force in respect of the ship a contract of insurance or other financial security in an amount equal to the shipowners limit of liability under the 1992 Civil Liability Convention (section 163(2) of the Merchant Shipping Act).

(c) State issued certificates confirming that the required insurance (or other security) exists will be issued to owners (provided satisfactory evidence is produced), in respect of ships registered in the United Kingdom and of ships registered in non-Convention countries, upon application to the Secretary of State, Department of Transport as the certifying authority in the United Kingdom (section 164 of the Merchant Shipping Act 1995).

(d) If the Secretary of State has doubt whether the person providing the insurance or other security will be able to meet his obligations or whether the insurance or other security will cover the owner's liability under section 153 of the Merchant Shipping Act 1995, he may refuse the certificate under section 164(2) of the Merchant Shipping Act 1995.

(e) The Secretary of State may make regulations providing for the cancellation and hand over of a certificate under section 164 of the Merchant Shipping Act 1995.

(f) Certificates for ships registered in a Convention country shall be recognised if issued by or under the Authority of the Government of that Country.

(g) Certificates for ships registered in non-Convention countries shall be recognised in the United Kingdom if issued by or under the authority of the government of any Convention country.

(h) Certificates are normally issued for a period of 12 months. Enquiries and requests for application forms should be addressed to:

**CLC Branch
Maritime and Coastguard Agency
105 Commercial Road
Southampton SO15 1EG
United Kingdom**

3.3 Applications should be accompanied by the evidence of insurance (normally in the form of a blue card issued by a P&I Club) and the appropriate fee. Shipowners requiring renewal certificates should note that it is often convenient to apply for these well in advance of the renewal date.

4 Penalties

4.1 If a ship contravenes paragraphs (a) or (b) above, the master or owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding £50,000.

4.2 If a ship fails to carry, or the master of a ship fails to produce a State issued certificate showing that insurance or other financial security is in place, the master shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

4.3 If a ship attempts to leave a port in the United Kingdom in breach of section 163 of the Merchant Shipping Act 1995, it may be detained.

5 Definitions

5.1 Section 170 (1) of the Merchant Shipping Act 1995 defines "oil".

More Information

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File Ref: CG 024/001/0093 (CG24/1/93)

Published: October 2009
Please note that all addresses and
telephone numbers are correct at time of publishing

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Printed on material containing minimum 75% post-consumer waste paper



An executive agency of the
Department for
Transport