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## EXTENSION OF STRICT LIABILITY OF SHIPOWNERS FOR OIL POLLUTION DAMAGE

### Notice to owners of all vessels

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1. This Notice informs shipowners of the extension of strict liability for oil pollution damage to all ships and recommends that shipowners maintain insurance to cover their liabilities.
2. A regime of strict liability already applies for certain types of oil pollution damage. The International Convention on Civil Liability for Oil Pollution Damage 1969, which is implemented in the UK by the Merchant Shipping (Oil Pollution) Act 1971 (the 1971 Act), places strict liability on owners of ships carrying oil in bulk as cargo. "Strict liability" means that victims of oil pollution damage do not have to prove fault on the part of the shipowner in order to obtain compensation. The shipowner is liable for any damage caused - or indeed threatened - by oil from the vessel.
3. From 1 October 1994, the Merchant Shipping (Salvage and Pollution) Act 1994 will extend strict liability for oil pollution damage to all ships carrying persistent oil, be it as fuel or as cargo.
4. This measure applies to any damage caused or threatened by a ***persistent*** oil such as crude oil, fuel oil, heavy diesel oil or lubricating oil. It applies to all motorized craft, including those which are not sea-going, but owners of small vessels whose engines run on light diesel are unlikely to be affected since this is not considered to be a persistent oil.
5. In the event of the actual discharge or release of persistent oil, the shipowner would be strictly liable for:
  - a. any damage caused outside the ship by contamination resulting from the discharge or escape of oil;
  - b. the cost of any measures reasonably taken to prevent or minimise any damage so caused; and
  - c. any damage caused by such preventive measures.

Shipowners are also liable for any preventive measures taken, and any damage caused by such measures, when there is a grave and imminent threat of damage being caused by a spillage of oil from a ship; even if no oil is in fact released.

## **Limits on Liability**

6. This measure does not affect the right of shipowners to limit their liability, or the size of the limits which they may apply. The applicable limits will, in general, continue to be those set out in the Merchant Shipping Act 1979, which implements the International Convention on the Limitation of Liability for Maritime Claims 1976 in the UK. However distinct limits on liability will continue to apply to oil tankers covered by the International Convention on Civil Liability for Oil Pollution Damage 1969, as implemented in the UK by the 1971 Act.

7. Unlike the regime applying to oil tankers, the 1994 Act does not make liability insurance compulsory. The Department of Transport however strongly recommends that all shipowners maintain insurance to cover their liabilities.

## **Exceptions from and Restrictions on Liability**

8. Shipowners are not liable if the actual or threatened damage was due to:

- a. war, insurrection or an act of God;
- b. the deliberate act or omission of a third party with intent to cause damage; or
- c. the negligence of a government or other authority responsible for the maintenance of navigational aids.

9. A shipowner liable for oil pollution damage under the amended 1971 Act is only liable under that Act. This liability therefore supersedes any concurrent liability. Action may not be taken against any party connected with the ship other than the shipowner, unless it can be proven that they acted intentionally or recklessly. The Act also restricts shipowners' liability for any impairment of the environment to any resulting loss of profit and the cost of any reasonable measures of reinstatement actually taken or to be taken.

## **Geographical Scope**

10. Shipowners are liable for damage caused or preventive measures taken in the UK, including the territorial sea, even if the incident occurs outside this area.

## **Time-bar on Claims**

11. No court may hear a claim if action is commenced more than three years after the damage was caused or the preventive measures taken, or more than six years after the first occurrence leading to the spillage.

## **Definition of Shipowner**

12. The shipowner is the owner of the ship at the time the spillage took place or, where appropriate, at the time of the incident which led to the threat of a spillage. In the case of a registered ship, the shipowner is the person registered as the ship's owner at that time.