

ELIZABETH II



Merchant Shipping Act 1981

1981 CHAPTER 10

An Act to replace by amounts equivalent to special drawing rights of the International Monetary Fund the amounts in gold francs specified in certain provisions limiting the liability of shipowners and others.

[15th April 1981]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Section 503 of the Merchant Shipping Act 1894, as amended by the Merchant Shipping (Liability of Shipowners and Others) Act 1958, shall have effect subject to the provisions of subsections (2) and (3) below, being provisions consequential on a Protocol signed on 21st December 1979 amending the International Convention of 1957 relating to the limitation of the liability of owners of sea-going ships.

Substitution
of special
drawing
rights in
limitation
provisions of
Merchant
Shipping Acts.

1894 c. 60.

1958 c. 62.

(2) The amounts per ton to be taken into account under subsection (1) (i) and (ii) of the said section 503 shall, instead of being amounts respectively equivalent to 3,100 and 1,000 gold francs, be amounts respectively equivalent to 206.67 and 66.67 special drawing rights.

(3) The special drawing rights referred to above are the special drawing rights as defined by the International Monetary Fund, and their equivalent shall be determined on the basis of the value of sterling—

- (a) if a limitation action is brought, on the date on which the limitation fund is constituted; and
- (b) in any other case, on the date of the judgment in question.

1900 c. 32.

(4) The amount per ton to be taken into account under section 2 of the Merchant Shipping (Liability of Shipowners and Others) Act 1900, as amended by the said Act of 1958, shall, instead of being an amount equivalent to 1,000 gold francs, be an amount equivalent to 66.67 special drawing rights and subsection (3) above shall apply also for the purposes of this subsection.

(5) In section 1 (1) of the said Act of 1958 (which is in part superseded by the foregoing provisions)—

(a) the words from “ or section two ” to the end of paragraph (b) shall be omitted ; and

(b) for the words “and the number by which the amount substituted by paragraph (a) of this subsection is to be multiplied ” there shall be substituted the words “ the number by which the amount equivalent to 206.67 special drawing rights is to be multiplied ”.

(6) In section 5 of the said Act of 1958 (release of ship where guarantee given in Convention country) “ the Convention ” shall mean the Convention there mentioned with or without the amendments made by the Protocol referred to in subsection (1) above and “Convention country ” shall be construed accordingly.

Substitution
of special
drawing
rights in
limitation
provisions of
Carriage of
Goods by Sea
Act 1971.
1971 c. 19.

2.—(1) In section 1 of the Carriage of Goods by Sea Act 1971 (which gives effect to the International Convention for the unification of certain rules of law relating to bills of lading signed at Brussels on 25th August 1924 as amended by the Protocol signed at Brussels on 23rd February 1968) after the words in subsection (1) “ as amended by the Protocol signed at Brussels on 23rd February 1968 ” there shall be inserted the words “ and by the Protocol signed at Brussels on 21st December 1979 ”.

(2) In consequence of the said Protocol of 1979 Article IV of the Rules set out in the Schedule to that Act shall be amended in accordance with the following provisions.

(3) In paragraph 5(a) of that Article—

(a) for the words “ the equivalent of 10,000 francs ” there shall be substituted the words “ 666.67 units of account ” ;

(b) for the words “ 30 francs per kilo ” there shall be substituted the words “ 2 units of account per kilogramme ”.

(4) For paragraph 5 (d) of that Article there shall be substituted—

“ (d) The unit of account mentioned in this Article is the special drawing right as defined by the International

Monetary Fund. The amounts mentioned in sub-paragraph (a) of this paragraph shall be converted into national currency on the basis of the value of that currency on a date to be determined by the law of the Court seized of the case”.

(5) In its application by virtue of the said Act of 1971 paragraph 5(d) of the said Article IV shall have effect as if the date there mentioned were the date of the judgment in question.

(6) In its application by virtue of the said Act of 1971 Article X of the Rules set out in the Schedule to that Act shall have effect as if references to a contracting State included references to a State that is a contracting State in respect of the Rules without the amendments made by the said Protocol of 1979 as well as to one that is a contracting State in respect of the Rules as so amended, and section 2 of that Act (certification of contracting States) shall have effect accordingly.

3.—(1) For the purposes of section 1 above and of Article IV of the Rules set out in the Schedule to the Carriage of Goods by Sea Act 1971 as amended by section 2 above, the value on a particular day of 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—

Conversion of special drawing rights into sterling.
1971 c. 19.

(a) for that day ; or

(b) if no sum has been so fixed for that day, for the last day before that day for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Treasury stating—

(a) that a particular sum in sterling has been fixed as aforesaid for a particular day ; or

(b) that no sum has been so fixed for a particular day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the particular day,

shall be conclusive evidence of those matters for the purposes of subsection (1) above ; and a document purporting to be such a certificate shall in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(3) The Treasury may charge a reasonable fee for any certificate given in pursuance of subsection (2) above, and any fee received by the Treasury by virtue of this subsection shall be paid into the Consolidated Fund.

Extent.

4.—(1) This Act extends to Northern Ireland.

1958 c. 62.

(2) The provisions to which section 11 of the Merchant Shipping (Liability of Shipowners and Others) Act 1958 applies (extension to British possessions etc.) shall include section 1 above and so much of the other provisions of this Act as relates to that section; and the provisions to which section 4 of the Carriage of Goods by Sea Act 1971 applies (extension to British possessions etc.) shall include section 2 above and so much of the other provisions of this Act as relates to that section.

1971 c. 19.

Short title,
citation,
repeals and
commence-
ment.

5.—(1) This Act may be cited as the Merchant Shipping Act 1981.

(2) This Act, except so far as it relates to the Carriage of Goods by Sea Act 1971, shall be construed as one with the Merchant Shipping Acts 1894 to 1979 and may be cited with those Acts as the Merchant Shipping Acts 1894 to 1981.

(3) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(4) This Act shall come into force on such day as Her Majesty may by Order in Council appoint and different days may be appointed for different provisions or different purposes of the same provision.

(5) An Order under subsection (4) above may contain transitional provisions.

(6) Any judgment in respect of a liability limited by a provision amended by this Act shall, if given after the coming into force of the amendment, be given in accordance with the amended provision irrespective of when the liability arose.

SCHEDULE

Section 5 (3).

REPEALS

Chapter	Short title	Extent of repeal
1958 c. 62.	The Merchant Shipping (Liability of Shipowners and Others) Act 1958.	In section 1, in subsection (1) the words from "or section two" to the end of paragraph (b) and subsections (2), (3) and (4).
1971 c. 19.	The Carriage of Goods by Sea Act 1971.	Section 1(5).

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