

1995-13 Gibraltar Merchant Shipping (Safety, etc.)

Subsidiary Legislation made under s.96.

Maritime Administrative Instruction (General) 2014

LN.2014/019

		<i>Commencement</i>	20.2.2014
Amending enactments	Relevant current provisions	Commencement date	
LN. 2019/117	Para 11(b)		13.6.2019

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In exercise of the power conferred on him by section 96 of the Merchant Shipping (Safety, Etc) Act, 1993 and all other enabling powers, the Maritime Administrator has made the following Administrative Instruction for the purpose of giving effect to the Convention on Limitation of Liability for Maritime Claims, 1976 as amended by the Protocol of 1996.

Title and Commencement.

1. This Administrative Instruction may be cited as the Maritime Administrative Instruction (General) 2014 and comes into operation on the day of publication in the Gazette.

Interpretation.

2. In this Administrative Instruction, unless the context otherwise requires—

“Convention” has the meaning assigned to it by the Protocol 1996”;

“Legal Committee” means the International Maritime Organization’s Legal Committee;

“Organisation” has the meaning assigned to it by the Protocol 1996;

“Protocol 1996” means the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims of 19 November 1976;

“Salvage Operations” includes operations referred to in Article 2(1)(d), (e) and (f) of the Convention;

“Salvor” means any person rendering services in direction connection with salvage operations;

“SDRs” means Special Drawing Rights as at 3 March 2008, 1 SDR was equivalent to £ sterling 0.81;

“Secretary-General” has the meaning assigned to it by the Protocol 1996;

“Shipowner” means the owner, charterer, manager and operator of a seagoing ship;

“State Party” means, where appropriate, Gibraltar once the Convention is extended to Gibraltar by the United Kingdom.

“Unit of Account” means the Special Drawing Right as defined by the International Monetary Fund.

Application of the Administration Instruction.

3. Protocol 1996 applies to Gibraltar Registered ships which are entitled to limit their liability in accordance with the rules of Article 2 of the Convention.

Claims excepted from limitation.

4. Article 3(a) of the Convention is amended by Article 2 of the Protocol 1996. The rules of the Convention will not apply to claims described in Article 3(b), (c), (d) and (e) of the Convention and Article 3(a) of the Convention as amended by Protocol 1996 to claims for salvage, including, if applicable, any claim for special compensation under Article 14 of the International Convention on Salvage 1989, as amended, or contribution by general average.

Change in General Limits of Liability.

5. Article 3 of Protocol 1996 replaces Article 6(1) of the Convention which provides the limit of liability in respect of claims for loss of life or personal injury and in respect of any other claims, and these limits will apply in Gibraltar.

6. In respect of claims for loss of life or personal injury, Article 3 (1)(a)(i) of Protocol 1996 increases the limit of liability from 333,000 Units of Account for a ship with a tonnage not exceeding 500 tons as provided for in Article 6 (1)(a)(i) to 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons.

7. Article 3 (1)(a)(ii) of Protocol 1996 amends Article 6(1) (a)(ii) of the Convention in respect of claims for loss of life or personal injury for any ship with a tonnage exceeding 2,000 tons with the following amount in addition to that mentioned in Article 3(1)(a)(i) of Protocol 1996–

- (a) for each ton from 2,001 to 30,000 tons, 800 Units of Account;
- (b) for each ton from 30,001 to 70,000 tons, 600 Units of Account; and
- (c) for each ton in excess of 70,000 tons, 400 Units of Account.

8. In respect of any other claims Article 3(1)(b)(i) of Protocol 1996 increases the limit of liability from 167,000 Units of Account for a ship with a tonnage not exceeding 500 tons as provided for in Article 6(1)(b)(i) of the Convention to 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons.

9. Article 3(1)(b)(ii) of Protocol 1996 amends Article 6(1)(b)(ii) of the Convention in respect of any other claims for any ship with a tonnage exceeding 2,000 tons with the following amount in addition to that mentioned in Article 3(1)(b)(i) of Protocol 1996–

- (a) for each ton from 2,001 to 30,000 tons, 400 Units of Account;

(b) for each ton from 30,001 to 70,000, 300 Units of Account; and

(c) for each ton in excess of 70,000 tons, 200 Units of Account.

10. Article 4 of the Protocol 1996 replaces Article 7(1) of the Convention. The limit of liability in respect of claims arising on any distinct occasion for loss of life or personal injury to passengers on ship is increased to 175,000 Units of Account from 46,666 Units of Account, multiplied by the number of passengers which the ship is authorised to carry under the ship's certificate.

Vessels with a tonnage not exceeding 300 tons – Small Vessels.

11. Article 15(2) of the Convention allows a State Party to decide the limits of liability to be applied in respect of very small ships, those not exceeding 300 tons. Gibraltar will apply such a limit of liability in respect of vessels not exceeding 300 tons–

(a) for vessels not exceeding 300 tons the limits of liability for loss of life or personal injury are set at 1,000,000 SDR; and

(b) for vessels not exceeding 300 tons the limits of liability for any other claims are set at 500,000 SDR.

Scope of Application.

12. Article 15 of the Convention provides the scope of application of the Convention. Article 6 of Protocol 1996 adds as paragraph 3(b) to Article 15 of the Convention the following text–

“Notwithstanding the limit of liability prescribed in paragraph 1 of Article 7, a State Party may regulate by specific provisions of national law the system of liability to be applied to claims for loss of life or personal injury to passengers on a ship, provided that the limit of liability is not lower than that prescribed in Article 7(1). A State Party which makes use of the option provided for in this paragraph shall inform the Secretary-General of the limits of liability adopted or of the fact that there are none.”

13. Gibraltar will not exercise its right to regulate by specific provisions of national law the system of liability or limits to be applied to claims for loss of life or personal injury to passengers on a ship.

Reservations.

14. Article 7 of Protocol 1996 replaces Article 18(1) of the Convention. It provides that any State Party, at the time of signature, ratification, acceptance, approval or accession, or at any

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time thereafter, reserve the right to exclude the application of Article 2(1)(d) and (e) of the Convention in relation to claims in respect of the raising, removal, destruction or rendering harmless of a ship which is sunk, wrecked or abandoned including anything that is or has been on board the ship. A State Party may also exclude the right to limit liability in respect of the removal, destruction or the rendering harmless of the cargo of the ship.

15. Gibraltar has exercised its right to exclude the application of Article 2(1)(d) of the Convention. Gibraltar will therefore apply unlimited liability in respect of wrecks.

16. Gibraltar will not exercise its right to exclude the application of Article 2(1)(e) of the Convention in respect of the removal of cargo. Therefore in respect of the removal of cargo Gibraltar will apply limited liability in accordance with the general limits, under Article 6 of the Convention, as amended by Protocol 1996.

17. Article 7 of Protocol 1996 replaces Article 18(1) of the Convention with the following text–

“any State Party may exclude claims for damage within the meaning of the International Convention on Liability and Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 or any amendments or protocol thereto.”

18. Gibraltar has exercised its right to exclude claims for damage within the meaning of the International Convention of Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 or of any amendment of protocol thereto.

19. Such exclusion has been sought in order for the prospective International Convention of Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 to be used effectively by claimants. However this reservation will only apply when the International Convention of Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 enters into force. Until such time, the Protocol 1996 limitations shall apply.