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**INTERNATIONAL CONVENTION ON SALVAGE 1989 TO HAVE THE  
FORCE OF LAW IN THE UK ON 1 JANUARY 1995**

Notice to owners and masters of all vessels

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1. The terms of the International Convention on Salvage 1989 will be given effect in the UK on 1 January 1995.

2. Mariners should already be familiar with most of the main provisions of the Salvage Convention, since they were introduced to the Lloyd's Open Form salvage contract in 1990 (LOF90). As a consequence of the implementation of the Salvage Convention, a new Lloyd's Form (LOF95) is being produced.

3. The main benefits of the Salvage Convention are that:

- **the Convention gives the master of a vessel the authority to conclude salvage contracts on behalf of the shipowner, and gives the master or shipowner the authority to conclude contracts on behalf of cargo owners;**
- **the Convention places a duty on the owners and masters of ships in danger and on salvors to exercise due care to prevent or minimize damage to the environment; and**
- **the Convention encourages salvors to maintain salvage capacity by seeking to ensure that they will receive a fair rate of compensation for their work when the vessel or its cargo threaten damage to the environment.**

4. The 1989 Salvage Convention is implemented by section 1 of, and Schedules 1 and 2 to, the Merchant Shipping (Salvage and Pollution) Act 1994. These provisions will be brought into force on 1 January 1995. Part I of Schedule 1 to the 1994 Act reproduces the substantive Articles of the Salvage Convention. The Act can be purchased from HMSO (ISBN 0-10-542894-9, price £4.30).

5. A more detailed explanation of the effect of the Convention is set out below.

**Application of the Convention**

6. The Convention will apply whenever proceedings relating to salvage operations started on or after 1 January 1995 are brought before a court or arbitrator in the UK.

## **Salvage contracts**

7. With two important exceptions, the provisions of the Convention are not mandatory. Salvors and the owners of the property to be salvaged will be free to enter into salvage contracts on terms which differ from the provisions of the Convention, However, no contractual duty may prevail over the duty under the Convention to exercise due care to prevent or minimize damage to the environment. Moreover, the courts and arbitrators may annul or modify a contract they consider to be unfair; for instance if a contract has been entered into under the influence of danger and its terms are inequitable, or if a contract provides for payment which is excessive or too small for the salvage services actually rendered.

8. As mentioned above, implementation of the Convention gives the master of a vessel statutory authority to conclude salvage contracts on behalf of the shipowner; and gives the master or shipowner statutory authority to conclude contracts on behalf of cargo owners.

## **Duty to render assistance**

9. The Convention requires masters to render assistance to persons in danger of being lost at sea, provided they can do so without putting their vessels or passengers and crew at serious risk. This is already a statutory duty in the UK, and failure to assist persons in danger will continue to be an offence punishable by fine or imprisonment. As at present, shipowners will not be liable for their masters' non-compliance with the duty to render assistance.

## **Special compensation**

10. In the most important departure from previous salvage practice, the Convention provides for an exception to the principle of "no cure - no pay", that is the link between the salvor's reward and the value of the salvaged property. In general, salvors' rewards will continue to be limited to the value of the salvaged property, but if the vessel or its cargo threatens damage to the environment, the Convention entitles salvors to recover their reasonable expenses, including a fair rate for equipment and personnel reasonably used in the salvage operation, in the form of "special compensation". And if, in addition, the salvors by their efforts actually prevent or minimize pollution, then the special compensation may be up to double their expenses.

11. Special compensation is payable only if, and to the extent that, it exceeds a traditional salvage reward limited to the value of the salvaged property. While traditional salvage rewards will continue in general to be covered by the insurers of hull and cargo, special compensation will usually be covered by the shipowner's liability insurer (i.e. his P&I Club).

## **Damage to the environment**

12. The Convention defines damage to the environment as "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".