



ATTORNEY-
GENERAL'S
CHAMBERS

PROPOSED REVISED EDITION OF MARITIME CONVENTIONS ACT 1911

(Final Report)

LRRD No. 4/2004

**LAW REFORM AND REVISION DIVISION
ATTORNEY-GENERAL'S CHAMBERS
SINGAPORE**

The Law Reform and Revision Division is a division of the Attorney-General's Chambers of Singapore.
It was formed on 1st April 2000 to reform and revise the law to keep it current, relevant and simple.

The office of the Law Reform and Revision Division is at
1 Coleman Street, #05-04,
The Adelphi, Singapore 179803.
Tel: 6332 5968
Fax: 6332 4700
E-mail: agc_LRRD@agc.gov.sg
Website: <http://www.agc.gov.sg>

28 December 2004

PROPOSED REVISED EDITION OF MARITIME CONVENTIONS ACT 1911

(FINAL REPORT)

The Law Reform and Revision Division Team for this project comprises:

- | | |
|------------------------|--|
| Charles Lim Aeng Cheng | - Law Revision Commissioner,
Principal Senior State Counsel, LRRD |
| Ms Wendy Yap | - State Counsel, LRRD |
| Ms Yvette Rodrigues | - Senior Legal Executive, LRRD
(till 31.8.04) |
| Ms Adeline Sim | - Legal Executive, LRRD |

In consultation with:

- | | |
|----------------|--|
| Mr David Chong | - Senior State Counsel, Civil Division |
|----------------|--|

Legal Editorial and Publication

- | | |
|-----------------------|---|
| Ms Cindy Soh | - Secretarial Support Officer (till 23.02.04) |
| Ms Noraini Bte Jantan | - Corporate Support Officer |

**LAW REFORM AND REVISION DIVISION
ATTORNEY-GENERAL'S CHAMBERS**

**PROPOSED REVISED EDITION OF
MARITIME CONVENTIONS ACT 1911**

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Part 1 — Introduction	1	7
Omission from List of Imperial Legislation in 1985 Revised Edition	1.2	7
The <i>Tan Ah Yeo</i> case	1.3	8
Application of English Law Act 1993	1.4	8
Background to Report	1.5	8
Aim of Report	1.9	9
Part 2 — Background and History of 1911 Act	2	11
Repeal in England of 1911 Act	2.5	12
Part 3 — Issues	3	13
<u>Issue A</u>	3.1	13
Whether the repeal in section 4(1) of the 1911 Act of section 419(4) of the Merchant Shipping Act 1894 continues to be relevant and should be retained?		
<u>Issue B</u>	3.12	16
Whether the cross-reference in section 4(2) of the 1911 Act to section 422 of the Merchant Shipping Act 1894 continues to be relevant and should be retained in the light of the equivalent provision in section 106 of the Singapore Merchant Shipping Act (Cap. 179)?		
<u>Issue C</u>	3.22	20
Whether the cross-reference in section 9(3) of the 1911 Act to section 25 of the Supreme Court of Judicature Act 1873 (36 & 37 Vict. c. 66) continues to be relevant and should be retained in the light of the		

	<i>Paragraph</i>	<i>Page</i>
fact that this imperial statute is not applicable to Singapore and there is no equivalent provision in Singapore legislation?		
<u>Issue D</u> Whether the cross-reference in section 10 of the 1911 Act to the Imperial Merchant Shipping Acts 1894 to 1907 should be retained or should it be replaced by a reference to the Singapore Merchant Shipping Act (Cap 179)?	3.30	22
<u>Issue E</u> How should the resulting lack of definition of “vessel” be dealt with?	3.40	25
<u>Miscellaneous Issues</u> Whether section 6 of the 1911 Act (“General duty to render assistance”) is redundant and should be deleted?	3.52	29
Reference to “His Majesty” in section 6(1)	3.60	31
Reference to “misdemeanour” in section 6(1)	3.63	31
Punishment for offences under 1911 Act	3.66	32
Section 9(1), (2) and (3)	3.69	32
Part 4 — Summary of Recommendations	4	35
<i>APPENDIX A: Proposed 2004 Revised Edition of the Maritime Conventions Act 1911</i>		39
<i>APPENDIX B: Maritime Conventions Act, 1911 (1 & 2 George V c.57)</i>		47
<i>APPENDIX C: Extract of Table of Derivations in UK Merchant Shipping Act 1995 (c. 21)</i>		51

	<i>Paragraph</i>	<i>Page</i>
<i>APPENDIX D: Comparative Table of Provisions of Maritime Conventions Act 1911 and UK Merchant Shipping Act 1995</i>		53
<i>APPENDIX E: Comparison of the UK Merchant Shipping Act, 1995 with the Singapore Merchant Shipping Act (Cap. 179)</i>		59
<i>APPENDIX F: Organisations/Individuals from whom Submissions on the Consultation Paper were received</i>		61

FINAL REPORT

PROPOSED REVISED EDITION OF MARITIME CONVENTIONS ACT 1911

PART I INTRODUCTION

- 1.1 The Maritime Conventions Act 1911¹ (“the 1911 Act”) is an imperial legislation enacted by the United Kingdom Parliament. It came into force on 16 December 1911. Pursuant to section 9 of the 1911 Act, its application was extended on 1 February 1913 to the Straits Settlements as part of His Majesty’s dominions.²

Omission from List of Imperial Legislation in 1985 Revised Edition

- 1.2 Although the Territorial Waters Jurisdiction Act 1878³ and the Straits Settlements and Johore Territorial Waters (Agreement) Act 1928⁴ were published in the list of Imperial Legislation in volume 18 of the 1985 Revised Edition of the Laws of Singapore, the 1911 Act was omitted. We are unable to ascertain the precise reason why the 1911 Act was omitted. We can only speculate that perhaps the Law Revision Commissioners at that time doubted that the 1911 Act applied to Singapore. This omission is also strange in the light of the fact that section 4 of the Contributory Negligence and Personal Injuries Act⁵ (CNPIA) recognises the application of the 1911 Act. Section 4 expressly provides that the CNPIA “shall not apply to any claims to which section 1 of the Maritime Conventions Act 1911 (U.K. 1911, c. 57) applies and that Act shall have effect as if this Act had not been passed”.

¹ 1 & 2 George V c.57.

² See *Seow Teck Ming v Tan Ah Yeo* (CA) [1991] SLR 169, [1991] 2 MLJ 489.

³ 41 & 42 Victoria c.73.

⁴ 18 & 19 George V c.23.

⁵ Cap. 54.

The *Tan Ah Yeo* case

- 1.3 The inference that a doubt existed then is supported by the fact that the preliminary question of whether the 1911 Act is part of the law of Singapore was posed to the High Court in *Tan Ah Yeo v Seow Teck Ming*⁶. It was held by Chao Hick Tin JC (as he then was) that volume 18 of the 1985 Revised Edition of the Laws of Singapore was not exhaustive. Chao JC (as he then was) went on to hold in *Tan Ah Yeo v Seow Teck Ming* that the 1911 Act was part of the law of Singapore as it had not been repealed by any local legislation. This finding was subsequently affirmed by the Court of Appeal in *Seow Teck Ming v Tan Ah Yeo*⁷.

Application of English Law Act 1993

- 1.4 The Application of English Law Act⁸ (“AELA”) enacted in 1993 provided expressly in section 4(1)(a) that the whole of the 1911 Act (being an English enactment specified in the First Schedule) shall, with the necessary modifications, apply or continue to apply in Singapore. Although the English statutes listed in Part II of the First Schedule were published as revised editions, the 1911 Act remains unpublished as a revised edition. It is proposed that the Law Revision Commissioners publish a 2004 revised edition of the 1911 Act in substantially the form set out in **Appendix A**.

Background to Report

- 1.5 Sometime in 2003, the Law Reform and Revision Division (“LRRD”) was alerted to the fact that although the AELA has expressly provided that the 1911 Act is part of Singapore law, it has not been published as part of our revised edition of laws.
- 1.6 LRRD, in its capacity as the Secretariat to the Law Revision Commission, undertook the preparation of a revised edition, but in the course of so doing, encountered a few issues relating to the cross-references to imperial legislation which are no longer part of Singapore law. Some of the difficulties spring from the fact that the

⁶ [1989] SLR 257.

⁷ [1991] SLR 169.

⁸ Cap. 7A.

decision of the Court of Appeal in *Seow Teck Ming v Tan Ah Yeo* had been delivered before the enactment of the AELA.

- 1.7 LRRD conducted preliminary research and issued a Consultation Paper (LRRD 2/2003) in August 2003, based on our tentative conclusions. We consulted various public and private sector organizations who were familiar with the issues, including the Singapore Shipping Association, the Maritime and Port Authority of Singapore, and The Law Society of Singapore. We also consulted certain leading shipping lawyers and academics. The list of individuals and organisations that responded is at **Appendix F**.
- 1.8 We are grateful to all who provided feedback during the consultation. Their contributions are invaluable.

Aim of Report

- 1.9 Section 9(1) of the AELA provides that the Law Revision Commissioners “may prepare and publish a revised edition of any English enactment specified in the First Schedule so as to bring the enactment into conformity with the local Acts”. This Report explains the issues dealt with in seeking to bring the 1911 Act into conformity with the local Acts, and proposes that the Law Revision Commissioners publish a 2004 Revised Edition of the 1911 Act as set out at **Appendix A**.

PART 2

BACKGROUND AND HISTORY OF 1911 ACT

- 2.1 The 1911 Act is a piece of imperial legislation enacted by the United Kingdom Parliament. It came into force on 16 December 1911. By virtue of section 9 thereof, its application was extended on 1 February 1913 to the Straits Settlements as part of His Majesty's dominions.⁹ The 1911 Act was meant to mark a "further stage of progress in the unification of international maritime law"¹⁰, so as to bring English law in line with the practice of other maritime nations. Whilst the Collision Regulations had long enjoyed international recognition, the practice as to the proof of liability, the incidence of the loss caused by collisions at sea and the ship owners' rights in respect of limitation of liability had at that time varied in different countries¹¹. In England, the statutory presumption of fault which arose on proof of a breach of the Collision Regulations or of failure to stand by after collision were wholly arbitrary rules of law and sometimes led to harsh results. A further hardship was added by the old Admiralty rule of equal division of loss on a finding of "both to blame" in cases where the colliding ships were in fault in different degrees. In the event of collision between two ships through lack of skill and negligence on both sides, the damage is "by the law of England, divided equally between the two vessels, however much the degree of fault may differ."¹²
- 2.2 Such a rule was criticised for being not only "unfair and illogical"¹³ but also "born of a historical mistake"¹⁴. The practice had its origin in a medieval rule. It was originally intended to apply only to cases where negligence cannot be ascertained, and "not at all to cases where the faults are ascertainable"¹⁵.

⁹ See *Seow Teck Ming v Tan Ah Yeo* (CA) [1991] SLR 169, [1991] 2 MLJ 489.

¹⁰ See "British Shipping Laws", Vol 11: The Merchant Shipping Acts, 1963, at p. 1267.

¹¹ As at 1896, in the US, France, Norway, Sweden, Denmark, Belgium, Greece, Portugal and Romania, the judge apportions the blame between the 2 vessels and divides the total damage accordingly.

¹² See Franck, "Collisions at sea in relation to International Maritime Law", *Law Quarterly Review*, Vol 12 (1896) p. 260.

¹³ See above at n 10 at p. 263.

¹⁴ See above at n 10 at p. 263.

¹⁵ See above at n 10 at p. 263.

- 2.3 The 1911 Act was hence meant to give effect to the provisions of the Brussels Conventions 1910¹⁶ which dealt with the rules as to Division of Loss and Proof of Liability and on the Law of Salvage. While only minor amendments in the law of salvage were necessary in order to give effect to the Salvage Convention, the alterations in the law as to proof of liability and the division of loss were far-reaching and fundamental¹⁷.
- 2.4 With the introduction¹⁸ of the 1911 Act, the position became one of “Proportionality” — where the greater the fault, the greater the amount of damages payable. This is still the position in England today, under section 187 of the Merchant Shipping Act 1995.

Repeal in England of 1911 Act

- 2.5 The 1911 Act was repealed in England by the Merchant Shipping Act 1995¹⁹ (“MSA 1995”) which came into force on 1st January 1996. The Table of Derivations in the MSA 1995 showed clearly that sections 187 to 190 and section 312 of the MSA 1995 were derived from the 1911 Act. An extract of the Table of Derivations is set out in **Appendix C**. A comparative table of the provisions of the MSA 1995 and the 1911 Act is set out at **Appendix D**. A comparative table of these provisions with the Singapore MSA is set out at **Appendix E**. From the table at **Appendix E**, it is clear that the provisions of the MSA 1995 derived from the 1911 Act have not been reproduced in the Singapore MSA (Cap.179). The 1911 Act therefore continues to be part of the law of Singapore.

¹⁶ Two Conventions signed at Brussels on 23 September 1910: *International Convention for the Unification of Certain Rules of Law Respecting Collisions between Vessels*; and *International Convention for the Unification of Certain Rules of Law relating to Assistance and Salvage at Sea*. Singapore is a party to these two Conventions.

¹⁷ See above at n 10.

¹⁸ However, the introduction of the Act in 1911 was still deeply criticised for omitting to include one of the resolutions (Art 8) of the Salvage Convention. It was pointed out by Lord Maugham in the case of *The Beaverford v. The Kafiristan* (1937), that “ it seems so desirable, as the Conventions themselves show, that rules on these topics should be uniform that it may well be expedient to take an early opportunity of remedying this omission”, and hence the 1911 Maritime Conventions Act should be amended to include the omitted art 8 of the Salvage Convention. However, despite the comments by the judiciary (Per Lord Atkin in the *Beaverford* case) the amendment was never carried out.

¹⁹ Chapter 21.

PART 3 ISSUES

- 3.1 Five main, and several miscellaneous issues have been identified in the revision of the 1911 Act. These issues arise as the 1911 Act makes references to certain imperial legislation that are not currently part of the law of Singapore, and to certain terms which are obsolete or inapplicable in Singapore.

Issue A

Whether the repeal in section 4(1) of the 1911 Act of section 419(4) of the Merchant Shipping Act 1894 continues to be relevant and should be retained?

- 3.2 Section 4(1) of the 1911 Act reads:

Abolition of statutory presumptions of fault (57 & 58 Vict. c. 60)

4.—(1) Subsection (4) of section four hundred and nineteen of the Merchant Shipping Act, 1894 (which provides that a ship shall be deemed in fault in a case of collision where any of the collision regulations have been infringed by that ship), is hereby repealed.

- 3.3 Section 419(4) of the Merchant Shipping Act 1894²⁰ (“MSA 1894”) provided that a ship shall be deemed in fault in a case of collision where any of the collision regulations had been infringed by that ship. Section 4(1) of the 1911 Act repealed that provision.
- 3.4 Although the MSA 1894 was extended to the Straits Settlements, it is *not* listed in the First Schedule to the AELA. Neither is the MSA 1894 an English enactment “which applies to or is in force in Singapore by virtue of any written law”. The MSA 1894 does not fall under any of the limbs in section 4 AELA, and by virtue section 5(1) AELA²¹ is not part of Singapore law.

- 3.5 Section 419, MSA 1894 (as at 1911) read:

²⁰ 57 & 58 Vict.c.60.

²¹ Which provides that no English enactment shall be part of the law of Singapore except as provided in the AELA.

Observance of collision regulations.

419.—(1) All owners and masters of ships shall obey the collision regulations, and shall not carry or exhibit any other lights, or use any other fog signals, than such as are required by those regulations.

(2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of the ship, that master or owner shall, in respect of each offence, be guilty of a misdemeanor.

(3) If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary.

(4) Where in a case of collision it is proved to the court before whom the case is tried, that any of the collision regulations have been infringed, the ship by which the regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary.

(5) The Board of Trade shall furnish a copy of the collision regulations to any master or owner of a ship who applies for it.

- 3.6 In the Consultation Paper, we had suggested that in the absence of a provision in our law equivalent to section 419(4) of the MSA 1894, the repeal of that provision is only of historical interest and meaningless in the context of Singapore law. We thus proposed that section 4(1) be retained for historical reference without any modification, but with an explanatory note appended to the effect that section 419(4), MSA 1894 is not applicable to Singapore and there is no equivalent provision in any written law. Under this proposal, section 4(1) of the revised 1911 Act would read:

Abolition of statutory presumptions of fault

4.—(1) Subsection (4) of section 419* of the Merchant Shipping Act, 1894 (57 & 58 Vict.c.60) (which provides that a ship shall be deemed in fault in a case of collision where any of the collision regulations have been infringed by that ship), is hereby repealed.

Footnote:

* Not applicable to Singapore and no equivalent provision in any written law.

Response on consultation

- 3.7 The consensus of all respondents was that the actual content of section 4(1) of the 1911 Act is inapplicable to Singapore.
- 3.8 However, some respondents disagreed with the drafting approach at paragraph 3.6 above. They saw no reason to retain section 4(1) of the 1911 Act for historical reference. One respondent stated that as the cross-reference to section 419 of the MSA 1894 has no application to Singapore, it will not be of any historical interest or value to Singapore and to retain the provision in revised edition in the footnote “may lead to confusion and unnecessary arguments”. Another pointed out that the history of the revised edition of the 1911 Act may be determined from other sources. Another stated that removing section 4(1) “would avoid any possible confusion and, at the very least, would save the reader the trouble of working out that section 4(1) is, in point of fact, irrelevant to his or her needs. In order to achieve the latter purpose, the reader would – under your proposed approach – have to read through the explanatory note suggested.”
- 3.9 An alternative approach that was suggested is to retain the explanatory note, but in order, instead, to explain why section 4(1) ought to be disregarded. The repealed provision could be reproduced in this note as well for those who are interested in its historical background.

Conclusion on Issue A

- 3.10 The views confirmed our view that section 4(1) is inapplicable. On balance, we agreed with the drafting approach suggested at paragraph 3.9. While it would usually be quite unusual to do so, in view of the complexities behind this provision, it is, in our view, useful to reproduce the original provision and keep a record the reasoning behind its deletion by the Law Revision Commissioners.

Recommendation

- 3.11 Section 4(1) of the revised 1911 Act should read:

Abolition of statutory presumptions of fault

4.—(1) (*Not applicable*)*

Footnote:

* This subsection originally read as follows:

“4.—(1) Subsection (4) of section four hundred and nineteen of the Merchant Shipping Act, 1894 (which provides that a ship shall be deemed in fault in a case of collision where any of the collision regulations have been infringed by that ship), is hereby repealed.”

It should be noted that section 419(4), Merchant Shipping Act, 1894 is not applicable to Singapore and there is no equivalent provision in any written law.

Issue B

Whether the cross-reference in section 4(2) of the 1911 Act to section 422 of the Merchant Shipping Act 1894 continues to be relevant and should be retained in the light of the equivalent provision in section 106 of the Singapore Merchant Shipping Act (Cap. 179)?

3.12 Section 4(2) of the 1911 Act reads:

Abolition of statutory presumptions of fault (57 & 58 Vict. c. 60)

4.—(2) The failure of the master or person in charge of a vessel to comply with the provisions of section four hundred and twenty-two of the Merchant Shipping Act, 1894, (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default, and accordingly subsection (2) of that section shall be repealed.

3.13 Section 4(2) of the 1911 Act provides that the failure of the master or person in charge of a vessel to comply with the provisions of section 422 of the MSA 1894 (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default, and repeals section 422(2) of the MSA 1894. In other words, section 4(2) of the 1911 Act repeals the presumption of fault created by section 422(2) MSA 1894.

3.14 Section 422 of the MSA 1894 (as at 1911) read:

Duty of vessel to assist the other in case of collision.

422.—(1) In every case of collision between two vessels, it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel crew and passengers (if any) —

- (a) to render to the other vessel her master crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that she has no need of further assistance, and also
- (b) to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.

(2) If the master or person in charge of a vessel fails to comply with this section, and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act neglect or default.

(3) If the master or person in charge fails without reasonable cause to comply with this section, he shall be guilty of a misdemeanor, and, if he is a certificated officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

3.15 In Singapore, section 106 of the Merchant Shipping Act²² (“MSA (Cap.179)”) contains a similar provision as to the duty of a ship to assist the other in case of collision. Section 106 provides:

Duty of ship to assist the other in case of collision.

106.—(1) In every case of collision between 2 ships, it shall be the duty of the master or, in his absence, the person in charge of each ship, if and so far as he can do so without danger to his own ship, crew and passengers (if any) —

- (a) to render to the other ship, its master, crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other ship until he has ascertained that it has no need of further assistance; and

²² Cap. 179.

- (b) to give to the master or person in charge of the other ship the name of his own ship and of the port to which it belongs, and also the names of the ports from which it came and to which it is bound.

(2) If the master fails without reasonable cause to comply with this section, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 and if he is a certificated officer, an inquiry into his conduct may be held and his certificate may be cancelled or suspended.

3.16 In the Consultation Paper, we argued that as the MSA 1894 is not part of Singapore law²³, section 422 is clearly not applicable to Singapore, and the cross-reference in section 4(2) of the 1911 Act is meaningless in the Singapore context. Even if it is argued that section 422 MSA 1894 applies by virtue of section 4(1)(b) of the AELA²⁴, section 4(3) AELA²⁵ would operate. Section 106 of the local Act would prevail over section 422 of the MSA 1894, and the cross-reference to section 422(2) MSA 1894 would still be meaningless in the Singapore context.

3.17 We thus proposed in the Consultation Paper that section 4(2) be retained for historical reference without modification, but with an explanatory note appended to the effect that “Section 422, Merchant Shipping Act, 1894 not applicable to Singapore but see section 106 of the Singapore Merchant Shipping Act (Cap. 179) as to duty of ship to assist the other in case of collision”. Under this proposal, section 4(2) of the revised 1911 Act would read:

Abolition of statutory presumptions of fault

4.—(2) The failure of the master or person in charge of a vessel to comply with the provisions of section 422 of the Merchant Shipping Act 1894* (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default, and accordingly subsection (2) of that section shall be repealed.

²³ For the reasons set out at paragraph 4.4 of the Consultation Paper.

²⁴ On the basis that the MSA 1894 constitutes “any other English enactment which applies to or is in force in Singapore by virtue of any written law”.

²⁵ Which provides that “To the extent to which any of the provisions of any English enactment is inconsistent with the provisions of any local Act in force at or after 12th November 1993, the provisions of the local Act shall prevail.”

Footnote:

* Not applicable to Singapore but see section 106 of the Singapore Merchant Shipping Act (Cap.179) as to duty of ship to assist the other in case of collision.

Response on consultation

- 3.18 All respondents agreed that the actual content of section 4(2) of the 1911 Act is inapplicable in Singapore.
- 3.19 However, as in Issue A, there was a similar divergence of views as to whether section 4(2) should be reproduced in the footnotes for historical interest.

Conclusion on Issue B

- 3.20 For the same reasons as in Issue A²⁶, we are of the view that section 4(2) should be deleted. The original provision should be reproduced in a footnote for historical interest with an explanation why it had been deleted by the Law Revision Commissioners.

Recommendation

- 3.21 Section 4(2) of the revised 1911 Act should read:

Abolition of statutory presumptions of fault

4.—(2) (*Not applicable*)*

Footnote:

* This subsection originally read as follows:

“(2) The failure of the master or person in charge of a vessel to comply with the provisions of section four hundred and twenty-two of the Merchant Shipping Act, 1894, (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default, and accordingly subsection (2) of that section shall be repealed.”

It should be noted that section 422, Merchant Shipping Act 1894 is not applicable to Singapore. Reference may also be made to section 106 of the Singapore Merchant Shipping Act (Cap. 179) which is the current law dealing with the duty of a ship to assist another in the case of a collision.

²⁶ See paragraph 3.10 above.

Issue C

Whether the cross-reference in section 9(3) of the 1911 Act to section 25 of the Supreme Court of Judicature Act 1873 (36 & 37 Vict. c. 66) continues to be relevant and should be retained in the light of the fact that this imperial statute is not applicable to Singapore and there is no equivalent provision in Singapore legislation?

3.22 Section 9(3) of the 1911 Act reads:

Application of Act.

9.—(3) The provisions of this Act shall be applied in all cases heard and determined in any court having jurisdiction to deal with the case and in whatever waters the damage or loss in question was caused or the salvage services in question were rendered, and subsection (9) of section twenty-five of the Supreme Court of Judicature Act, 1873, shall cease to have effect.

3.23 Section 25(9) of the Supreme Court of Judicature Act, 1873 (“SCJA 1873”) provided that the Admiralty rule of division of loss should prevail over the common law rule of contributory negligence. Section 25(9) reads:

Damages by collisions at sea.

25.—(9) In any cause or proceeding for damages arising out of a collision between two ships, if both ships shall be found to have been in fault, the rules hitherto in force in the Court of Admiralty, so far as they have been at variance with the rules in force in the Courts of Common Law, shall prevail.

3.24 The Imperial SCJA 1873 is not applicable to Singapore.²⁷ There is no equivalent provision to section 25(9) SCJA 1873 in any other Singapore legislation. The Singapore High Court has historically not been divided into the Court of Admiralty and the Courts of Common Law.²⁸

²⁷ As it is not an English enactment specified in Schedule 1 of the AELA, neither is it applicable or in force in Singapore by virtue of any written law: section 4(1) AELA.

²⁸ Note however that Singapore has on 4 Feb 2002 established a specialist commercial court which seeks to “reinforce Singapore’s status as a leading shipping hub” (Supreme Court Annual Report 2002).

- 3.25 In the Consultation Paper, we argued that in the absence of a provision equivalent to section 25(9) SCJA 1873, its repeal by section 9(3) of the 1911 Act is only of historical interest and meaningless in the context of Singapore law. We proposed that no modification be made to section 9(3) of the 1911 Act but that a note be appended to the effect that section 25(9) of the SCJA 1873 is not applicable to Singapore and that there is no equivalent provision in any written law”. Under this proposal, section 9(3) of the 1911 Act would read:

Application of Act

9.—(3) The provisions of this Act shall be applied in all cases heard and determined in any court having jurisdiction to deal with the case and in whatever waters the damage or loss in question was caused or the salvage services in question were rendered, and subsection (9) of section twenty-five of the Supreme Court of Judicature Act, 1873 (36 & 37 Vict.c.66), shall cease to have effect.*

Footnote:

* Not applicable to Singapore and no equivalent provision in any written law.

Response on consultation

- 3.26 All respondents agreed that the actual content of section 9(3) of the 1911 Act is inapplicable to Singapore.
- 3.27 There was a similar divergence of views, as in Issues A and B, as to whether the original provision should be reproduced in the footnotes for historical interest.

Conclusion on Issue C

- 3.28 For the same reasons as in Issues A and B²⁹, we are of the view that section 9(3) should be deleted and the original provision reproduced in the footnotes for historical interest, with an explanation why it had been deleted.

²⁹ See paragraph 3.10.

Recommendation

- 3.29 Section 9(3) of the 1911 Act should be deleted and a footnote inserted to read³⁰:

Footnote:

* This subsection was re-numbered from section 9(2). The original section 9(3) has not been reproduced as it is not applicable. It originally read as follows:

“(3) The provisions of this Act shall be applied in all cases heard and determined in any court having jurisdiction to deal with the case and in whatever waters the damage or loss in question was caused or the salvage services in question were rendered, and subsection (9) of section twenty-five of the Supreme Court of Judicature Act, 1873, shall cease to have effect.”

It should be noted that section 25(9) of the Supreme Court of Judicature Act, 1873 (36 & 37 Vict.c.66), is not applicable to Singapore and there is no equivalent provision in any written law.

Issue D

Whether the cross-reference in section 10 of the 1911 Act to the Imperial Merchant Shipping Acts 1894 to 1907 should be retained or should it be replaced by a reference to the Singapore Merchant Shipping Act (Cap 179)?

- 3.30 Section 10 of the 1911 Act reads:

Short title and construction.

10. This Act may be cited as the Maritime Conventions Act, 1911, and shall be construed as one with the Merchant Shipping Acts, 1894 to 1907.

- 3.31 It appears that the MSA 1894 was at one time prior to the enactment of the AELA regarded as imperial legislation applying to the Straits Settlements. In the 5th and 6th Editions of the *Chronological Table of Imperial Acts Applicable to the Straits Settlements, 1912 and 1913*³¹, the Merchant Shipping Acts of 1894 to 1907 were listed as Imperial Acts applicable to the Straits Settlements. The Note to the Table states that the law of the Straits Settlements comprises such of the Imperial

³⁰ The footnote should be inserted immediately after the new section 9(3) (which was originally section 9(2) but re-numbered in view of the need to break up subsection 9(1) into two subsections).

³¹ Compiled by William George Maxwell and revised by A. De Mello, Government Printing Office, Singapore.

Acts subsequent to 26th November 1826 as apply either to the Straits Settlements especially or the Colonies generally. This explains why our local Merchant Shipping Ordinance and later Merchant Shipping Act (e.g. see that of 1910 and right up to the version in the 1980s) referred to the MSA 1894 as if it were applicable in Singapore. If the MSA 1894 was part of our law, the reference to the MSA 1894 in the 1911 Act would be logical and perfectly understandable.

- 3.32 This is however contradicted by the observation of the Court of Appeal in *Seow Teck Ming v Tan Ah Yeo*³² that the MSA 1894 was never applied directly to the Straits Settlements as part of their law although parts of it were re-enacted by local legislation from time to time. The Court of Appeal also observed that the current MSA (Cap. 179) was a consolidating and amending Ordinance first enacted as Ordinance No 3 of 1910. The Court of Appeal then went on to hold that section 10 of the 1911 Act does not require the 1911 Act to be read with the MSA (Cap. 179) but with the Imperial MSA 1894 to 1907. In the context of section 10 of the 1911 Act, it is possible to reconcile the Court of Appeal’s ruling with its observation that the MSA 1894 was never applied directly to the Straits Settlements.
- 3.33 In support of the Court of Appeal’s ruling, we argued in the Consultation Paper that section 10 of the 1911 Act is merely an interpretation provision. Accordingly section 10 operates to apply the provisions of the MSA 1894 to 1907 but limited to the purposes of the interpretation of the provisions of the 1911 Act. Indeed, in *Seow Teck Ming v Tan Ah Yeo*, the Court of Appeal applied the MSA 1894 in respect of the interpretation of the word “vessel”.
- 3.34 However, we also pointed out in the Consultation Paper that *Seow Teck Ming v Tan Ah Yeo* was decided before the enactment of the Application of English Law Act in 1993. **Section 4(3)** of the AELA provides that “to the extent to which any of the provisions of any English enactment is inconsistent with the provisions of any local Act in force at or after 13th November 1993, the **provisions of the local Act will prevail**”. Further, **section 4(4)(e)** of the AELA provides that in relation to any English enactment specified in the First Schedule, unless the context otherwise requires **any reference to a statute or a**

³² [1991] SLR 169 per Chan Sek Keong J at p. 178.

statutory provision shall, where applicable, be read as a reference to the *corresponding statute or statutory provision in Singapore*. We thus argued that the combined effect of these two provisions, when applied to section 10 of the 1911 Act, is that the MSA 1894 can be applied in the *interpretation* of the 1911 Act *in so far as the provisions are not inconsistent with the provisions of the local MSA*. So, if the local MSA has a different definition of “vessel”, the definition in the local MSA would prevail over the definition in the Imperial MSA 1894.

- 3.35 In our Consultation Paper, we therefore proposed that section 10 be retained without any modification (in other words, the cross-reference to the Imperial MSA 1894 to 1907 should be retained and should not be replaced by a reference to the MSA (Cap. 179)), but that a footnote be appended that:

* This Act is to be construed with the provisions of the Merchant Shipping Acts 1894 (57 & 58 Vict.c.50) to 1907 in so far as those provisions are not inconsistent with the provisions of the local Merchant Shipping Act (Cap.179). If provision is inconsistent, local Act will prevail. See section 4(3) of the Application of English Law Act (Cap. 7A) and *Seow Teck Ming v Tan Ah Yeo* C. A. [1991] SLR 169”

- 3.36 In the Consultation Paper, we recognized that this approach is not without its difficulties as explained above. It can be argued that in the light of section 4(4)(e) of the AELA, the reference in section 10 of the 1911 Act should be substituted with a reference to the MSA (Cap. 179). We felt however that this argument would ignore the provisions of section 4(3) AELA and the ruling of the Court of Appeal in *Seow Teck Ming v Tan Ah Yeo*.

Response on consultation

- 3.37 There was almost universal support for the alternative view in our Consultation Paper that the reference in section 10 of the 1911 Act to the MSA 1894 should be substituted with a reference to the MSA (Cap. 179). The reasoning is clear. Section 4(4)(e) AELA clearly applies, requiring the reference, in section 10, to the Imperial MSA 1894, to be read as a reference to the “corresponding statute or provision in Singapore”, which is the MSA (Cap. 179). Once section 10 of the 1911 Act is read as referring to the MSA (Cap. 179), section

4(3) AELA loses its relevance because the conflict which section 4(3) AELA refers to no longer arises. *Seow Teck Ming v Tan Ah Yeo* cannot be relied on as authority that reference should be made to the MSA 1894 rather than the MSA (Cap. 179) because that case was decided before the enactment of the AELA.

Conclusion on Issue D

- 3.38 We agree with the reasoning in paragraph 3.37. The cross-reference in section 10 of the 1911 Act to the Imperial MSA 1894 to 1907 should be replaced by a reference to the local MSA (Cap. 179).

Recommendation

- 3.39 Section 10 of the revised edition of the 1911 Act should read:

Short title and construction

10. This Act may be cited as the Maritime Conventions Act, 1911, and shall be construed as one with the Merchant Shipping Act (Cap. 179).*

Footnote:

* This section originally provided that this Act is to be construed as one with the provisions of the Merchant Shipping Acts 1894 (57 & 58 Vict.c.50) to 1907. These Imperial Acts are not applicable in Singapore. Section 4(4)(e) of the Application of English Law Act (Cap. 7A) provides that:

“4.–(4) In relation to any English enactment specified in the First Schedule, unless the context otherwise requires –

.....

- (e) any reference to a statute or a statutory provision shall, where applicable, be read as a reference to the corresponding statute or statutory provision in Singapore; and

.....”

Issue E

How should the resulting lack of definition of “vessel” be dealt with?

- 3.40 This is an issue that was pointed out to us during consultation and accordingly we do not have the benefit of many views. Since 1995, the MSA (Cap. 179) definition of “vessel” and all references to

“vessel” have been removed³³. The present MSA (Cap. 179) refers only to “ships”. Following from the conclusion at Issue D that the cross-reference in section 10 of the 1911 Act should be changed from the Imperial MSA 1894 to 1907, to the MSA (Cap. 179), a question arises as to the meaning of “vessel” in the 1911 Act, a term which is used throughout the 1911 Act.

3.41 There are six options:

- (i) Amend the MSA (Cap. 179) to replace the word “ship” in the definition provision to “ship or vessel”;
- (ii) Revise the 1911 Act to replace “vessel” with “ship or vessel” wherever the word appears;
- (iii) Revise the 1911 Act to define “vessel” as having the same meaning as in the MSA in 1993 when the AELA was enacted;
- (iv) Revise the 1911 Act to define “vessel” as having the same meaning as “ship” in the present MSA;
- (v) Revise the 1911 Act to replace “vessel” with “ship” wherever the word appears; or
- (vi) Modification by Minister for Law under section 8 AELA³⁴.

3.42 In our view, the Law Revision Commissioners may properly exercise its powers in options (ii) to (v) above. Section 4(1) AELA provides that the 1911 Act (being an English enactment referred to in Schedule 1) shall apply or continue to apply “with the necessary modifications”. Section 9(1) of the AELA goes on to provide that the Law Revision Commissioners appointed under the Revised Edition of the Laws Act (Cap. 275) may prepare and publish a revised edition of any English

³³ Except for a limited definition of “vessel” which is applicable only to section 103 (“Observance of collision regulations”).

³⁴ Section 8 AELA reads:

“Modification Orders.

8. The Minister may, on the advice of the Law Revision Commissioners and where he considers it necessary or expedient for the purpose of removing any difficulty arising from local conditions or circumstances in the application of any provision in any English enactment specified in the First Schedule, by order modify or substitute that provision.”

enactment specified in the First Schedule “so as to bring the enactment into conformity with the local Acts”.

- 3.43 In our view, it is therefore not necessary to resort to option (i) (which, in any case, may have other unintended implications as it impacts on other statutory provisions, both present and future, where the word “vessel” appears) or option (vi).
- 3.44 Turning to options (ii) to (v), option (ii) is not ideal because if the 1911 Act is revised to refer to “ship or vessel”, it will be clear what “ship” means, but this still leaves open the question of what a “vessel” is, in addition to “ship”.
- 3.45 As for option (iii), the logic of this option is that the 1911 Act should be revised in accordance with how the law stood as at 1993 when the AELA was enacted. Changes in the law after AELA therefore cannot have any impact on the revision of the 1911 Act. As at 1993, the MSA (Cap. 179) had defined “vessel” and it is this definition that should be adopted in interpreting the 1911 Act. Any subsequent changes to the definition of “vessel” or even its eventual disappearance from the MSA (Cap. 179) in 1995, are irrelevant.
- 3.46 While there is much to be said for the logic of this approach, in our view, this option is untenable from a proper interpretation of section 4(4)(e) AELA³⁵. The words in section 4(4)(e) that reference should be made to the corresponding Singapore statute, are unqualified as to the version of the Singapore statute. This in our view suggests that the legislature intended that reference should be made to the corresponding Singapore statute *as it may be amended from time to time*.
- 3.47 Turning to options (iv) and (v), we are of the view that either of these would be in order. For option (iv), one may seek to ascribe, to “vessel”, the MSA (Cap. 179) meaning of “ship”, in two ways, by inserting a provision stating, either —
- (a) “In this Act, “vessel” shall have the same meaning as “ship” in the MSA (Cap. 179)”;
- or

³⁵ Which provides that “any reference to a statute or a statutory provision shall, where applicable, be read as a reference to the corresponding statute or statutory provision in Singapore”.

(b) “In this Act, “vessel” means (and here reproducing the definition of “ship” in the MSA (Cap. 179)).”.

- 3.48 Between the two sub-options, (a) is in our view preferable because the definition of “vessel” will change automatically with any changes in the meaning of “ship” in the MSA (Cap. 179), which is in accordance with (our reading of) the legislative intent in section 4(4)(e) AELA.
- 3.49 However, option (v) is, in our view, a marginally better option than (iv), as it involves the least change to the current structure of the 1911 Act. It is also simpler and more direct as the concept of “vessel”, which is obsolete in the context of the 1911 Act, is removed altogether. Because of section 10, there should be no doubt that “ship” in the 1911 Act has the same meaning as that in the MSA (Cap.179).³⁶
- 3.50 Looking at the issue at the ‘macro’ level, the 1911 Act when it was enacted was intended to apply to “vessels”, as the term was then defined in the MSA 1894 (at section 742). The MSA (Cap. 179) was a consolidating and amending Ordinance first enacted as Ordinance No. 3 of 1910. As then enacted, it provided the same definition for the expressions “ship” and “vessel” as were provided in section 742 of the MSA 1894. Since then, MSA (Cap. 179) has been amended on many occasions, with the current definition of “ship” incorporating the subsequent thinking in relation to floating rigs and platforms used in operations at sea³⁷. The Merchant Shipping (Amendment) Bill introduced in Parliament on 19th October 2004 seeks to further amend the definition of “ship” to include off-shore industry mobile units. The proposed approach takes in such legislative amendments. From the macro point of view therefore, option (v) would be a step in the right direction.

Recommendation

- 3.51 The word “vessel” in the 1911 Act should be replaced with “ship” wherever the word appears in the 1911 Act.

³⁶ And not, say, the meaning of “ship” in the Interpretation Act (Cap. 1) or in any other Act.

³⁷ This particular amendment came about in 1973 via Act 11/73 wef 1.4.73.

Miscellaneous Issues

Whether section 6 of the 1911 Act (“General duty to render assistance”) is redundant and should be deleted?

- 3.52 Section 6 gives effect to Article 11 of the Salvage Convention of 23 September 1910. Article 11 states:

“Every master is bound, so far as he can do so without serious danger to his vessel, her crew and passengers, to render assistance to everybody, even though an enemy, found at sea and in danger of being lost. The owner of a vessel incurs no liability by reason of contravention of the above provision.”

- 3.53 Likewise, section 6 of the 1911 Act reads:

General duty to render assistance to persons in danger at sea

6.—(1) The master or person in charge of a ship shall, so far as he can do so without serious danger to his own ship, her crew and passengers (if any), render assistance to every person, even if such person be a subject of a foreign State at war with His Majesty, who is found at sea in danger of being lost, and, if he fails to do so, he shall be guilty of a misdemeanour.

(2) Compliance by the master or person in charge of a ship with the provisions of this section shall not affect his right or the right of any other person to salvage.

- 3.54 In UK, section 314, Schedule 12 of the UK MSA 1995 repealed section 6 of the 1911 Act. This is replaced by section 93 of the UK MSA 1995.
- 3.55 The London Salvage Convention 1989 reviewed the law of salvage as set out in the 1910 Convention and added to it.³⁸ UK has ratified the Salvage Convention 1989. Singapore is not a party to the 1989 Salvage Convention but is a party to the 1910 Salvage Convention. Article 10 of the Salvage Convention 1989 sets out the general duty to render assistance:

³⁸ *Brice on Maritime Law of Salvage* (4th Ed, 2003) at I-54.

“Article 10

Duty to render assistance

1 Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.

2 The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.

3 The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.”

3.56 In Singapore, a similar provision to section 6 of the 1911 Act is found in Regulation 33 (Distress Messages: Obligations and Procedures) of Chapter V of the Singapore Merchant Shipping (Safety Convention) Regulations (Chapter 179, Rg 11). The penalty for breach of regulation is set out at Regulation 22 of Chapter I, Part D.³⁹ In view of this, we asked ourselves whether section 6 of the 1911 Act was redundant and should be deleted.

3.57 We noted however that Regulation 33(e) expressly states that the provisions apply without prejudice to Article 11 of the 1910 Convention:

33.—(e) The provisions of this Regulation do not prejudice the Convention for the unification of certain rules of law relating to Assistance and Salvage at Sea, signed at Brussels on 23rd September 1910, particularly the obligation to render assistance imposed by article 11 of that Convention.**

** International Convention on Salvage 1989 done at London on 28th April 1989 entered into force on 14th July 1996.

3.58 Since it is arguable that Regulation 33 is intended to supplement rather than replace Article 11 of the 1910 Convention, we are of the view that section 6 should not be deleted. Regulation 33 is subsidiary legislation and subordinate to the 1911 Act which is primary legislation, albeit imperial primary legislation. If Regulation 33 is for any reason revoked, a lacuna might exist. Removing section 6 might

³⁹ Which provides that an owner or master guilty of breach is liable on conviction to a fine not exceeding \$10,000. Additionally, the ship may be detained.

also give the impression that Singapore is not giving effect to our obligations under Article 11 of the 1910 Convention.

- 3.59 For the above reasons, we recommend that section 6 of the 1911 Act should be retained, but so that attention is brought to the existence of a similar duty under Regulation 33, a footnote should be inserted as follows:

“See also Regulation 33 (Distress Messages: Obligations and Procedures) of Chapter V of the Singapore Merchant Shipping (Safety Convention) Regulations (Chapter 179, Rg 11).”

Reference to “His Majesty” in section 6(1)

- 3.60 Section 6(1) of the 1911 Act refers to a “foreign State at war with His Majesty”. In relation to the Imperial 1911 Act, section 4(4)(a) of the AELA (Cap. 7A) states that, unless the context otherwise requires:

“(a) any reference to the United Kingdom shall be read as a reference to Singapore;”

- 3.61 In our view, in the present context, it is at least arguable that the reference to “His Majesty” is in actual fact a reference to the United Kingdom. The modification can also be justified as a ‘necessary’ modification under section 4(1) of the AELA.
- 3.62 We therefore recommend that the reference to “His Majesty” should be modified to “Singapore”.

Reference to “misdemeanour” in section 6(1)

- 3.63 Singapore law does not distinguish between felonies and misdemeanours. The word “misdemeanour” does not exist in our current legislation (i.e. Acts and Subsidiary Legislation).⁴⁰
- 3.64 Section 4(1) AELA provides that the MCA 1911 shall apply “*with necessary modifications*”. In our view, substituting “misdemeanour” with “offence” is one such modification contemplated by the AELA.

⁴⁰ However, a previous piece of Subsidiary Legislation (*Medical Registration Regulations*, repealed in 1998), defines “a case relating to conviction” as meaning “a case where it is alleged that a practitioner has been convicted by any court of any felony, misdemeanour, crime or offence”.

- 3.65 Therefore, we recommend that the reference to “misdemeanour” should be modified to “offence”.

Punishment for offences under 1911 Act

- 3.66 The Imperial 1911 Act does not specify any punishment for the misdemeanour. It is unclear whether UK law had once⁴¹ contained a general penalty provision that was applicable to misdemeanours for which no penalty is expressly provided.
- 3.67 Section 10 of the 1911 Act requires the 1911 Act to be “construed as one”⁴² with the MSA (Cap. 179). Section 200 of the MSA (Cap. 179) contains a “general penalties” section:

General penalties.

200.—(1) Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) Any person who fails to comply with or does or suffers to be done anything contrary to the provisions of this Act shall, unless otherwise provided, be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

- 3.68 In our view, with the substitution of “misdemeanour” with “offence” in section 6(1), section 200 MSA (Cap. 179) applies to a breach of section 6(1) of the 1911 Act.

Section 9(1), (2) and (3)

- 3.69 Section 9(1), (2) and (3) of the 1911 Act reads:

Application of Act

9.—(1) This Act shall extend throughout His Majesty’s dominions and to any territories under his protection, and to Cyprus.

⁴¹ In UK, the distinction between felonies and misdemeanours was abolished by the Criminal Law Act 1967 s.1.

⁴² “Construed as one”. I.e. every part of each Act is to be construed as if contained in one Act unless there is some manifest discrepancy; see eg. *Phillips v Parnaby* [1934] 2 KB 299 at p.303; [1934] All ER Rep. 267 at pp. 268, 269, and the Preliminary note to the title Statutes, Vol. 32, p.376. (Halsbury’s Laws of England, 3rd Ed, Shipping and Navigation at p.601.)

(2) This Act shall not extend to the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(3) This Act shall not apply in any case in which proceedings have been taken before the passing thereof and all such cases shall be determined as though this Act had not been passed.

...

- 3.70 We considered whether these subsections are obsolete and should be deleted. After much deliberation, we decided that these provisions should be retained. Section 9(1) had formed the legal basis for the extension of the application of the Act to Singapore in 1913. Should this provision be deleted, we would need to find another way to explain how the Act originally came to be applicable to Singapore. Furthermore, the three subsections are not inconsistent, or potentially inconsistent with local law and their retention would not pose any legal problems. We therefore recommend that sections 9(1), 9(2) and 9(3) be retained.

PART 4

SUMMARY OF RECOMMENDATIONS

4 In summary, our recommendations are:

Issue A - Whether the repeal in section 4(1) of the 1911 Act of section 419(4) of the Merchant Shipping Act 1894 continues to be relevant and should be retained?

4.1 Section 4(1) of the revised 1911 Act should read:

Abolition of statutory presumptions of fault

4.—(1) *(Not applicable)**

Footnote:

* This subsection originally read as follows:

“4.—(1) Subsection (4) of section four hundred and nineteen of the Merchant Shipping Act, 1894 (which provides that a ship shall be deemed in fault in a case of collision where any of the collision regulations have been infringed by that ship), is hereby repealed.”

It should be noted that section 419(4), Merchant Shipping Act, 1894 is not applicable to Singapore and there is no equivalent provision in any written law.

Issue B - Whether the cross-reference in section 4(2) of the 1911 Act to section 422 of the Merchant Shipping Act 1894 continues to be relevant and should be retained in the light of the equivalent provision in section 106 of the Singapore Merchant Shipping Act (Cap. 179)?

4.2 Section 4(2) of the revised 1911 Act should read:

Abolition of statutory presumptions of fault

4.—(2) *(Not applicable)**

Footnote:

* This subsection originally read as follows:

“(2) The failure of the master or person in charge of a vessel to comply with the provisions of section four hundred and twenty-two of the Merchant Shipping Act, 1894, (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act,

neglect, or default, and accordingly subsection (2) of that section shall be repealed.”

It should be noted that section 422, Merchant Shipping Act 1894 is not applicable to Singapore. Reference may also be made to section 106 of the Singapore Merchant Shipping Act (Cap. 179) which is the current law dealing with the duty of a ship to assist another in the case of a collision.

Issue C - Whether the cross-reference in section 9(3) of the 1911 Act to section 25 of the Supreme Court of Judicature Act 1873 (36 & 37 Vict. c. 66) continues to be relevant and should be retained in the light of the fact that this imperial statute is not applicable to Singapore and there is no equivalent provision in Singapore legislation?

4.3 Section 9(3) of the 1911 Act should be deleted and a footnote inserted to read⁴³:

Footnote:

* This subsection was re-numbered from section 9(2). The original section 9(3) has not been reproduced as it is not applicable. It originally read as follows:

“(3) The provisions of this Act shall be applied in all cases heard and determined in any court having jurisdiction to deal with the case and in whatever waters the damage or loss in question was caused or the salvage services in question were rendered, and subsection (9) of section twenty-five of the Supreme Court of Judicature Act, 1873, shall cease to have effect.”

It should be noted that section 25(9) of the Supreme Court of Judicature Act, 1873 (36 & 37 Vict.c.66), is not applicable to Singapore and there is no equivalent provision in any written law.

Issue D - Whether the cross-reference in section 10 of the 1911 Act to the Imperial Merchant Shipping Acts 1894 to 1907 should be retained or should it be replaced by a reference to the Singapore Merchant Shipping Act (Cap. 179)?

4.4 Section 10 of the revised edition of the 1911 Act should read:

Short title and construction

10. This Act may be cited as the Maritime Conventions Act, 1911, and shall be construed as one with the Merchant Shipping Act (Cap. 179).*

⁴³ The footnote should be inserted immediately after the new section 9(3) (which was originally section 9(2) but re-numbered in view of the need to break up subsection 9(1) into two subsections).

Footnote:

* This section originally provided that this Act is to be construed as one with the provisions of the Merchant Shipping Acts 1894 (57 & 58 Vict.c.50) to 1907. These Imperial Acts are not applicable in Singapore. Section 4(4)(e) of the Application of English Law Act (Cap. 7A) provides that:

“4.–(4) In relation to any English enactment specified in the First Schedule, unless the context otherwise requires –

.....

(e) any reference to a statute or a statutory provision shall, where applicable, be read as a reference to the corresponding statute or statutory provision in Singapore; and

.....”

Issue E – How should the resulting lack of definition of “vessel” be dealt with?

- 4.5 The word “vessel” in the 1911 Act should be replaced with “ship” wherever the word appears in the 1911 Act.

Miscellaneous Issues

- 4.6 Section 6 of the 1911 Act should be retained with a footnote inserted after section 6(1) to read:

“See also Regulation 33 (Distress Messages: Obligations and Procedures) of Chapter V of the Singapore Merchant Shipping (Safety Convention) Regulations (Cap. 179, Rg 11).”.

- 4.7 The reference in section 6(1) to “His Majesty” should be modified to “Singapore”.
- 4.8 The reference to “misdemeanour” in section 6(1) should be modified to “offence”.
- 4.9 Section 9(1), (2) and (3) should be retained without modification.

APPENDIX A

THE STATUTES OF THE REPUBLIC OF SINGAPORE

MARITIME CONVENTIONS ACT 1911

(1 & 2 Geo. 5.)

REVISED EDITION 2004

**PRINTED BY THE GOVERNMENT PRINTER, SINGAPORE
2004**

MARITIME CONVENTIONS ACT 1911

ARRANGEMENT OF SECTIONS

PART I PROVISIONS AS TO COLLISIONS, & C.

Section

1. Rule as to division of loss
2. Damages for personal injuries
3. Right of contribution
4. Abolition of statutory presumptions of fault
5. Jurisdiction in cases of loss of life or personal injury

PART II PROVISIONS AS TO SALVAGE

6. General duty to render assistance to persons in danger at sea
7. Apportionment of salvage amongst owners, &c., of foreign ship

PART III GENERAL PROVISIONS

8. Limitation of actions
 9. Application of Act
 10. Short title and construction
-

An Act to amend the Law relating to Merchant Shipping with a view to enabling certain Conventions to be carried into effect.

[16th December 1911]

WHEREAS at the Conference held at Brussels in 1910 two conventions, dealing respectively with collisions between vessels and with salvage, were signed on behalf of His Majesty, and it is desirable that such amendments should be made in the law relating to merchant shipping as will enable effect to be given to the conventions:

Be it therefore enacted by the King'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:

PART I

PROVISIONS AS TO COLLISIONS, & C.

Rule as to division of loss

1.—(1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was in fault, except that if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(2) Nothing in this section shall operate so as to render any ship liable for any loss or damage to which her fault has not contributed.

(3) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(4) For the purposes of this Act, “freight” includes passage money and hire, and references to damage or loss caused by the fault of a ship shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

Damages for personal injuries

2.—(1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships shall be joint and several.

(2) Nothing in this section —

(a) shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life; or

- (b) shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

Right of contribution

3.—(1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion in which she was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault.

(2) No amount shall be recovered under subsection (1) which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(3) In addition to any other remedy provided by law, the persons entitled to any such contribution as aforesaid shall, for the purpose of recovering the same, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

Abolition of statutory presumptions of fault

4.—(1) *(Not applicable)*¹

(2) *(Not applicable)*²

¹ This subsection originally read as follows:

“4.—(1) Subsection (4) of section four hundred and nineteen of the Merchant Shipping Act, 1894 (which provides that a ship shall be deemed in fault in a case of collision where any of the collision regulations have been infringed by that ship), is hereby repealed.”

It should be noted that section 419(4), Merchant Shipping Act, 1894 is not applicable to Singapore and there is no equivalent provision in any written law.

² This subsection originally read as follows:

“(2) The failure of the master or person in charge of a vessel to comply with the provisions of section four hundred and twenty-two of the Merchant Shipping Act, 1894, (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default, and accordingly subsection (2) of that section shall be repealed.”

It should be noted that section 422, Merchant Shipping Act 1894 is not applicable to Singapore. Reference may also be made to section 106 of the Singapore Merchant Shipping Act (Cap. 179) which is the current law dealing with the duty of a ship to assist another in the case of a collision.

Jurisdiction in cases of loss of life or personal injury

5. Any enactment which confers on any court Admiralty jurisdiction in respect of damage shall have effect as though references to such damage included references to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem (against the thing) or in personam (against the person).

PART II

PROVISIONS AS TO SALVAGE

General duty to render assistance to persons in danger at sea

6.—(1) The master or person in charge of a ship shall, so far as he can do so without serious danger to his own ship, her crew and passengers (if any), render assistance to every person, even if such person be a subject of a foreign State at war with Singapore, who is found at sea in danger of being lost, and, if he fails to do so, he shall be guilty of an offence.³

(2) Compliance by the master or person in charge of a ship with the provisions of this section shall not affect his right or the right of any other person to salvage.

Apportionment of salvage amongst owners, & c., of foreign ship

7. Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, pilot, crew, and other persons in the service of any foreign ship, the amount shall be apportioned by the court or person making the apportionment in accordance with the law of the country to which the ship belongs.

PART III

GENERAL PROVISIONS

Limitation of actions

8.—(1) No action shall be maintainable to enforce any claim or lien against a ship or her owners in respect of —

³ See also Regulation 33 (Distress Messages: Obligations and Procedures) of Chapter V of the Singapore Merchant Shipping (Safety Convention) Regulations (Cap. 179, Rg 11).

- (a) any damage or loss to another ship, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former ship, whether such ship be wholly or partly in fault; or
- (b) any salvage services,

unless proceedings therein are commenced within 2 years from the date when the damage, loss or injury was caused or the salvage services were rendered.

(2) An action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment.

(3) Notwithstanding subsections (1) and (2), any court having jurisdiction to deal with an action to which this section relates —

- (a) may, in accordance with the Rules of Court, extend any such period, to such extent and on such conditions as it thinks fit; and
- (b) shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant ship within the jurisdiction of the court, or within the territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

Application of Act

9.—(1) This Act shall extend throughout His Majesty's dominions⁴ and to any territories under his protection, and to Cyprus.

(2) This Act shall not extend to the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(3) This Act shall not apply in any case in which proceedings have been taken before the passing thereof and all such cases shall be determined as though this Act had not been passed.⁵

⁴ Application of Act extended on 1st February 1913 to the Straits Settlements as part of His Majesty's dominions: see *Seow Teck Ming v Tan Ah Yeo* (CA) [1991] SLR 169, [1991] 2 MLJ 489.

⁵ This subsection was re-numbered from section 9(2). The original section 9(3) has not been reproduced as it is not applicable. It originally read as follows:

“(3) The provisions of this Act shall be applied in all cases heard and determined in any court having jurisdiction to deal with the case and in whatever waters the damage or loss in question was caused or the salvage services in question were

(4) This Act shall apply to any persons other than the owners responsible for the fault of the ship as though the expression “owners” included such persons.

(5) In any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the ship, this Act shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.

Short title and construction

10. This Act may be cited as the Maritime Conventions Act, 1911, and shall be construed as one with the Merchant Shipping Act (Cap. 179).⁶

rendered, and subsection (9) of section twenty-five of the Supreme Court of Judicature Act, 1873, shall cease to have effect.”

It should be noted that section 25(9) of the Supreme Court of Judicature Act, 1873 (36 & 37 Vict. c.66), is not applicable to Singapore and there is no equivalent provision in any written law.

⁶ This section originally provided that this Act is to be construed as one with the provisions of the Merchant Shipping Acts 1894 (57 & 58 Vict.c.50) to 1907. These Imperial Acts are not applicable in Singapore. Section 4(4)(e) of the Application of English Law Act (Cap. 7A) provides that:

“4.–(4) In relation to any English enactment specified in the First Schedule, unless the context otherwise requires –

.....

(e) any reference to a statute or a statutory provision shall, where applicable, be read as a reference to the corresponding statute or statutory provision in Singapore; and

.....”

APPENDIX B

1911. *Telephone Transfer Amendment Act, 1911.* Ch. 56, 57. 453

CHAPTER 56.

An Act to amend the Telephone Transfer Act, 1911, so as to authorise a payment to be made to the National Telephone Company, Limited, of a sum on account of the Telephone Purchase Money before the amount thereof is finally ascertained. [16th December 1911.]

BE it enacted by the King'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) The Treasury may issue out of the Consolidated Fund, or the growing produce thereof, such sums, not exceeding in the whole three million pounds, as may be required for making any payment which the Postmaster-General may agree to make to the National Telephone Company, Limited, as a payment on account of the sums ultimately payable as the telephone purchase money.

Power to make a payment to the National Telephone Company, Limited, on account of the telephone purchase money.

(2) Any sums so authorised to be issued shall be treated for the purpose of the Telephone Transfer Act, 1911, as if they were sums authorised to be issued under that Act for the purpose of the payment of that part of the telephone purchase money which is payable in cash, and that Act shall apply accordingly.

1 & 2 Geo. 5. c. 26.

2.—(1) This Act may be cited as the Telephone Transfer Amendment Act, 1911.

Short title and construction.

(2) This Act shall be construed as one with the Telephone Transfer Act, 1911, and may be cited with the Telegraph Acts, 1863 to 1911.

CHAPTER 57.

see also Application of English Law. Act 35/93 (Singapore)

An Act to amend the Law relating to Merchant Shipping with a view to enabling certain Conventions to be carried into effect. [16th December 1911.]

WHEREAS at the Conference held at Brussels in the year nineteen hundred and ten two conventions, dealing respectively with collisions between vessels and with salvage, were signed on behalf of His Majesty, and it is desirable that such amendments should be made in the law relating to merchant shipping as will enable effect to be given to the conventions :

Be it therefore enacted by the King'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 :

Provisions as to Collisions, &c.

Rule as to
division of
loss.

1.—(1) Where, by the fault of two or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault :

Provided that—

- (a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally ; and
- (b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed ; and
- (c) nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(2) For the purposes of this Act, the expression “ freight ” includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

Damages
for personal
injuries.

2. Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several :

Provided that nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

Right of
contribution.

3.—(1) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which she was in fault, they may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault :

Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other

reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(2) In addition to any other remedy provided by law, the persons entitled to any such contribution as aforesaid shall, for the purpose of recovering the same, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

4.—(1) Subsection (4) of section four hundred and nineteen of the Merchant Shipping Act, 1894 (which provides that a ship shall be deemed in fault in a case of collision where any of the collision regulations have been infringed by that ship), is hereby repealed. Abolition of statutory presumptions of fault. 57 & 58 Vict. c. 60.

(2) The failure of the master or person in charge of a vessel to comply with the provisions of section four hundred and twenty-two of the Merchant Shipping Act, 1894, (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default, and accordingly subsection (2) of that section shall be repealed.

5. Any enactment which confers on any court Admiralty jurisdiction in respect of damage shall have effect as though references to such damage included references to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem or in personam. Jurisdiction in cases of loss of life or personal injury.

Provisions as to Salvage.

6.—(1) The master or person in charge of a vessel shall, so far as he can do so without serious danger to his own vessel, her crew and passengers (if any), render assistance to every person, even if such person be a subject of a foreign State at war with His Majesty, who is found at sea in danger of being lost, and, if he fails to do so, he shall be guilty of a misdemeanour. General duty to render assistance to persons in danger at sea.

(2) Compliance by the master or person in charge of a vessel with the provisions of this section shall not affect his right or the right of any other person to salvage.

7. Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, pilot, crew, and other persons in the service of any foreign vessel, the amount shall be apportioned by the court or person making the apportionment in accordance with the law of the country to which the vessel belongs. Apportionment of salvage amongst owners, &c., of foreign ship.

General Provisions.

8. No action shall be maintainable to enforce any claim or lien against a vessel or her owners in respect of any damage or loss to another vessel, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of Limitation of actions.

the former vessel, whether such vessel be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered, and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment :

Provided that any court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court, extend any such period, to such extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant vessel within the jurisdiction of the court, or within the territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

Application of Act.

9.—(1) This Act shall extend throughout His Majesty's dominions and to any territories under his protection, and to Cyprus :

Provided that it shall not extend to the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(2) This Act shall not apply in any case in which proceedings have been taken before the passing thereof and all such cases shall be determined as though this Act had not been passed.

36 & 37 Vict. c. 66.

(3) The provisions of this Act shall be applied in all cases heard and determined in any court having jurisdiction to deal with the case and in whatever waters the damage or loss in question was caused or the salvage services in question were rendered, and subsection (9) of section twenty-five of the Supreme Court of Judicature Act, 1873, shall cease to have effect.

(4) This Act shall apply to any persons other than the owners responsible for the fault of the vessel as though the expression "owners" included such persons, and in any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, this Act shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.

Short title and construction.

10. This Act may be cited as the Maritime Conventions Act, 1911, and shall be construed as one with the Merchant Shipping Acts, 1894 to 1907.

UK Merchant Shipping Act 1995 (c. 21)

Short title and commencement.

316.—(1) This Act may be cited as the Merchant Shipping Act 1995.

(2) This Act shall come into force on 1st January 1996.

Table of Derivations

Notes

1. This Table shows the derivations of the provisions of the Bill.

2. The following abbreviations are used in the Table:—

Acts of Parliament

1911 MC = Maritime Conventions Act 1911 (c. 57)

Provision	Derivation
187(1)	1911 MC s.1(1)
(2)	1911 MC s.1(1) proviso (a)
(3)	1911 MC s.9(4)
(4)	1911 MC s.1(1) proviso (b)
(5)	1911 MC s.1(1) proviso (c)
(6), (7)	1911 MC s.1(2)
188(1)	1911 MC s.2
(2)	1911 MC s.9(4)
(3)	1911 MC s.2 proviso
(4)	1911 MC s.1(2)
189(1)	1911 MC s.3(1)
(2)	1911 MC s.9(4)
(3)	1911 MC s.3(1) proviso
(4)	1911 MC s.3(2)
190(1) to (4)	1911 MC s.8
(5), (6)	1911 MC s.8 proviso
312 (2)	1911 MC s.5

APPENDIX D

<p>COMPARATIVE TABLE OF PROVISIONS OF MARITIME CONVENTIONS ACT 1911 AND UK MERCHANT SHIPPING ACT 1995</p>
--

UK Merchant Shipping Act 1995 (c. 21)	Maritime Conventions Act 1911 (c. 57)
<p>Damage or loss: apportionment of liability</p> <p>187.—(1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was in fault.</p>	<p>Rules as to division of loss</p> <p>1.—(1) Where, by the fault of two or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault:</p>
<p>(2) If, in any such case, having regard to all the circumstances, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.</p>	<p>Rules as to division of loss</p> <p>1.—(1)</p> <p>Provided that —</p> <p style="padding-left: 40px;">(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; and</p>
<p>(3) This section applies to persons other than the owners of a ship who are responsible for the fault of the ships, as well as to the owners of a ship and where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the ship, this section applies to the charterers or other persons for the time being so responsible instead of the owners.</p>	<p>Application of Act</p> <p>9.— (4) This Act shall apply to any persons other than the owners responsible for the fault of the vessel as though the expression “owners” included such persons, and in any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, this Act shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.</p>

UK Merchant Shipping Act 1995 (c. 21)	Maritime Conventions Act 1911 (c. 57)
<p>(4) Nothing in this section shall operate so as to render any ship liable for any loss or damage to which the fault of the ship has not contributed.</p>	<p>Rules as to division of loss</p> <p>1.—(1)</p> <p>Provided that —</p> <p>(b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed; and</p>
<p>(5) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.</p>	<p>Rules as to division of loss</p> <p>1.—(1)</p> <p>Provided that —</p> <p>(c) nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.</p>
<p>(6) In this section "freight" includes passage money and hire.</p> <p>(7) In this section references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.</p>	<p>Rules as to division of loss</p> <p>1.—(2) For the purposes of this Act, the expression "freight" includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.</p>
<p>(2) Subsection (3) of section 187 applies also to this section.</p>	<p>Application of Act</p> <p>9.—(4) This Act shall apply to any persons other than the owners responsible for the fault of the vessel as though the expression "owners" included such persons, and in any case where,</p>

UK Merchant Shipping Act 1995 (c. 21)	Maritime Conventions Act 1911 (c. 57)
	by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, this Act shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.
<p>(3) Nothing in this section shall be construed as depriving any person of any right of defence on which, apart from this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in the manner provided by law.</p>	<p>Damages for personal injuries</p> <p>2.—Provided that nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.</p>
<p>(4) Subsection (7) of section 187 applies also for the interpretation of this section.</p>	<p>Rules as to division of loss</p> <p>1.—(2) For the purposes of this Act, the expression “freight” includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.</p>
<p>Loss of life or personal injuries: right of contribution</p> <p>189.—(1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion</p>	<p>Right of contribution</p> <p>3.—(1) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which she was in fault, they may recover by</p>

UK Merchant Shipping Act 1995 (c. 21)	Maritime Conventions Act 1911 (c. 57)
<p>in which the ship was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault.</p>	<p>way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault:</p>
<p>(2) Subsection (3) of section 187 applies also to this section.</p>	<p>Application of Act</p> <p>9.—(4) This Act shall apply to any persons other than the owners responsible for the fault of the vessel as though the expression “owners” included such persons, and in any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, this Act shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.</p>
<p>(3) Nothing in this section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.</p>	<p>Right of contribution</p> <p>3.—(1)</p> <p>Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.</p>
<p>(4) In addition to any other remedy provided by law, the persons entitled to any contribution recoverable under this section shall, for the purposes of recovering it, have the same rights and powers as the persons entitled to sue for damages in the first instance.</p>	<p>Right of contribution</p> <p>3.—(2) In addition to any other remedy provided by law, the persons entitled to any such contribution as aforesaid shall, for the purpose of recovering the same, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.</p>

UK Merchant Shipping Act 1995 (c. 21)	Maritime Conventions Act 1911 (c. 57)
<p>Time limit for proceedings against owners or ship</p> <p>190.—(1) This section applies to any proceedings to enforce any claim or lien against a ship or her owners—</p> <p>(a) in respect of damage or loss caused by the fault of that ship to another ship, its cargo or freight or any property on board it; or</p> <p>(b) for damages for loss of life or personal injury caused by the fault of that ship to any person on board another ship.</p> <p>(2) The extent of the fault is immaterial for the purposes of this section.</p> <p>(3) Subject to subsections (5) and (6) below, no proceedings to which this section applies shall be brought after the period of two years from the date when—</p> <p>(a) the damage or loss was caused; or</p> <p>(b) the loss of life or injury was suffered.</p> <p>(4) Subject to subsections (5) and (6) below, no proceedings under any of sections 187 to 189 to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal injury shall be brought after the period of one year from the date of payment.</p>	<p>Limitation of actions</p> <p>8. —No action shall be maintainable to enforce any claim or lien against a vessel or her owners in respect of any damage or loss to another vessel, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former vessel, whether such vessel be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered, and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment:</p>
<p>(5) Any court having jurisdiction in such proceedings may, in accordance with rules of court, extend the period allowed for bringing proceedings to such extent and on such conditions as it thinks fit.</p> <p>(6) Any such court, if satisfied that there has not been during any period allowed for</p>	<p>Limitation of actions</p> <p>8.—Provided that any court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court, extend any such period, to such extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the</p>

UK Merchant Shipping Act 1995 (c. 21)	Maritime Conventions Act 1911 (c. 57)
<p>bringing proceedings any reasonable opportunity of arresting the defendant ship within—</p> <p>(a) the jurisdiction of the court, or</p> <p>(b) the territorial sea of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business,</p> <p>shall extend the period allowed for bringing proceedings to an extent sufficient to give a reasonable opportunity of so arresting the ship.</p>	<p>defendant vessel within the jurisdiction of the court, or within the territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.</p>
<p>Special provisions for Scots law</p> <p>312.—(2) Any enactment which confers on any court in Scotland Admiralty jurisdiction in respect of damage shall have effect as if references to damage included reference to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem or in personam.</p>	<p>Jurisdiction in cases of loss of life or personal injury</p> <p>5.—Any enactment which confers on any court Admiralty Jurisdiction in respect of damage shall have effect as though references to such damage included references to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem or in personam.</p>

APPENDIX E

Comparison of the UK Merchant Shipping Act, 1995 with the Singapore Merchant Shipping Act (Cap. 179)

UK Merchant Shipping Act, 1995	Singapore Merchant Shipping Act (Cap. 179)
Damage or Loss Apportionment of Liability : s 187 s187(1)	No equivalent provision. Section 138 deals with Part-Owners but it only goes towards excluding or limiting liability.
Loss of Life or Personal Injuries: Joint and Several Liability : s 188	No equivalent provision
Loss of Life or Personal Injuries: Right of Contribution : s 189	No equivalent provision and section 4(1), Contributory Negligence and Personal Injuries Act provides that it “shall not apply to any claims to which section 1 of the Maritime Conventions Act 1911 applies and that Act shall have effect as if this Act had not been passed”.
Time Limit for Proceedings against Owners or ship : s 190	There is no time bar in the Act but there is a time bar of three years imposed for personal injury claims under the Limitation Act.
Special provision for Scots law : s 312	Not applicable

APPENDIX F

<p style="text-align: center;">Organisations/Individuals from whom Submissions on the Consultation Paper were received</p>

G.P. Selvam (M/s Haq & Selvam)

The Law Society of Singapore

Singapore Shipping Association

Maritime and Port Authority of Singapore

Professor Andrew Phang (Singapore Management University)



ATTORNEY-
GENERAL'S
CHAMBERS

PROPOSED REVISED EDITION OF MARITIME CONVENTIONS ACT 1911

(Consultation Paper)

LRRD No. 2/2003

13 Aug 2003

PROPOSED REVISED EDITION OF MARITIME CONVENTIONS ACT 1911

The Law Reform and Revision Division Team for this project comprises:

Charles Lim Aeng Cheng	- Principal Senior State Counsel, LRRD
Ms Wendy Yap	- State Counsel, LRRD
Ms Yvette Rodrigues	- Senior Legal Executive, LRRD
Ms Tan Ming-fen	- Intern

In consultation with:

Mr David Chong	- Senior State Counsel, Civil Division
----------------	--

Legal Editorial and Publication

Ms Cindy Soh	- Secretarial Support Officer
Ms Noraini Bte Jantan	- Corporate Support Officer

**LAW REFORM AND REVISION DIVISION
ATTORNEY-GENERAL'S CHAMBERS**

**PROPOSED REVISED EDITION OF
MARITIME CONVENTIONS ACT 1911**

CONTENTS

	<i>Paragraph</i>	<i>Page</i>
Part 1 — Introduction	1	5
Omission from List of Imperial Legislation in 1985 Revised Edition	1.2	5
The Tan Ah Yeo case	1.3	5
Application of English Law Act 1993	1.4	6
Part 2 — Background and History of 1911 Act	2	7
Repeal in England of 1911 Act	2.5	8
Part 3 — Proposed 2003 Revised Edition of 1911 Act	3	9
Part 4 — Issues for Discussion	4	11
<u>Issue A</u>	4.1	11
Whether the repeal in section 4(1) of the 1911 Act of section 419(4) of the Merchant Shipping Act 1894 continues to be relevant and should be retained?		
<u>Issue B</u>	4.3	12
Whether the cross-reference in section 4(2) of the 1911 Act to section 422 of the Merchant Shipping Act 1894 continues to be relevant and should be retained in the light of the equivalent provision in section 106 of the Singapore Merchant Shipping Act (Cap. 179)?		
<u>Issue C</u>	4.7	14
Whether the cross-reference in section 9(3) of the 1911 Act to section 25 of the Supreme Court of Judicature Act 1873 (36 & 37 Vict. c. 66) continues to be relevant and should be retained in the light of the fact that this imperial statute is not applicable to Singapore and there is no equivalent provision in Singapore legislation?		

	<i>Paragraph</i>	<i>Page</i>
<u>Issue D</u>	4.9	15
Whether the cross-reference in section 10 of the 1911 Act to the Imperial Merchant Shipping Acts 1894 to 1907 should be retained or should it be replaced by a reference to the Singapore Merchant Shipping Act (Cap 179)?		
Part 5 — Summary of Issues	5	19
<i>APPENDIX A: Proposed 2003 Revised Edition of the Maritime Conventions Act 1911</i>	-	21
<i>APPENDIX B: Extract of Table of Derivations in UK Merchant Shipping Act 195, C. 21</i>	-	27
<i>APPENDIX C: Comparative Table of Provisions of Maritime Conventions Act 1911 and UK Merchant Shipping Act 1995</i>	-	29
<i>APPENDIX D: Comparison of the UK Merchant Shipping Act, 1995 with the Singapore Merchant Shipping Act (Cap. 179)</i>	-	37

CONSULTATION PAPER

PROPOSED REVISED EDITION OF MARITIME CONVENTIONS ACT 1911

PART I INTRODUCTION

- 1.1 The Maritime Conventions Act 1911¹ (“the 1911 Act”) is an imperial legislation enacted by the United Kingdom Parliament. It came into force on 16 December 1911. Pursuant to section 9 of the 1911 Act, its application was on 1 February 1913 by order in council extended to the Straits Settlement as part of His Majesty’s dominions.

Omission from List of Imperial Legislation in 1985 Revised Edition

- 1.2 Although the Territorial Waters Jurisdiction Act 1878² and the Straits Settlements and Johore Territorial Waters (Agreement) Act 1928³ were published in the list of Imperial Legislation in volume 18 of the 1985 Revised Edition of the Laws of Singapore, the 1911 Act was omitted. We are unable to ascertain the precise reason why the 1911 Act was omitted. Perhaps it was because the Law Revision Commissioners at that time doubted that the 1911 Act applied to Singapore. This omission is also strange in the light of the fact that section 4 of the Contributory Negligence and Personal Injuries Act⁴ (CNPIA) recognised the application of the 1911 Act. Section 4 expressly provides that the CNPIA “shall not apply to any claims to which section 1 of the Maritime Conventions Act 1911 applies and that Act shall have effect as if this Act had not been passed”.

The *Tan Ah Yeo* case

- 1.3 The inference that a doubt existed then is supported by the fact that the preliminary question of whether the 1911 Act is a part of the law of

¹ 1 & 2 George V c.57.

² 41 & 42 Victoria c.73.

³ 18 & 19 George V c.23.

⁴ Cap. 54.

Singapore was posed to the High Court in *Tan Ah Yeo v Seow Teck Ming*⁵. It was held by Chao Hick Tin JC (as he then was) that volume 18 of the 1985 Revised Edition of the Laws of Singapore was not exhaustive. Chao JC (as he then was) went on to hold in *Tan Ah Yeo v Seow Teck Ming* that the 1911 Act was a part of the law of Singapore as it had not been repealed by any local legislation. This finding was subsequently affirmed by the Court of Appeal in *Seow Teck Ming v Tan Ah Yeo*⁶.

Application of English Law Act 1993

- 1.4 The Application of English Law Act⁷ enacted in 1993 provided expressly in section 4(1)(a) that the whole of the 1911 Act (being an English enactment specified in the First Schedule) shall, with the necessary modifications, apply or continue to apply in Singapore. Although the English statutes listed in Part II of the First Schedule were published as revised editions, the 1911 Act remains unpublished as a revised edition. It is proposed that the Law Revision Commissioners publish a 2003 revised edition of the 1911 Act in substantially the form set out in **Appendix A**.

⁵ [1989] SLR 257.

⁶ [1991] SLR 169.

⁷ Cap. 7A.

PART 2

BACKGROUND AND HISTORY OF 1911 ACT

- 2.1 The 1911 Act was meant to mark a “further stage of progress in the unification of international maritime law”⁸, so as to bring English law in line with the practice of other maritime nations. Whilst the Collision Regulations had long enjoyed international recognition, the practice as to the proof of liability, the incidence of the loss caused by collisions at sea and the ship owners’ rights in respect of limitation of liability had at that time varied in different countries⁹. In England, the statutory presumption of fault which arose on proof of a breach of the Collision Regulations or of failure to stand by after collision were wholly arbitrary rules of law and sometimes led to harsh results. A further hardship was added by the old Admiralty rule of equal division of loss on a finding of “both to blame” in cases where the colliding ships were in fault in different degrees. In the event of collision between two ships through lack of skill and negligence on both sides, the damage is “by the law of England, divided equally between the two vessels, however much the degree of fault may differ.”¹⁰
- 2.2 Such a rule was criticised for being not only “unfair and illogical”¹¹ but also “born of a historical mistake”¹². The practice had its origin in a medieval rule. It was originally intended to apply only to cases where negligence cannot be ascertained, and “not at all to cases where the faults are ascertainable”¹³.
- 2.3 The 1911 Act was hence meant to give effect to the provisions of the Brussels Conventions 1910¹⁴ which dealt with the rules as to Division of Loss and Proof of Liability and on the Law of Salvage. While only minor amendments in the law of salvage were necessary in order to give effect to the Salvage Convention, the alterations in the law as to

⁸ See “British Shipping Laws”, Vol 11: The Merchant Shipping Acts, 1963, at p. 1267.

⁹ As at 1896, in the US, France, Norway, Sweden, Denmark, Belgium, Greece, Portugal and Romania, the judge apportions the blame between the 2 vessels and divides the total damage accordingly.

¹⁰ See Franck, “Collisions at sea in relation to International Maritime Law”, Law Quarterly Review, Vol 12 (1896) p. 260.

¹¹ See above at n 8 at p. 263.

¹² See above at n 8 at p. 263.

¹³ See above at n 8 at p. 263.

¹⁴ Two Conventions signed at Brussels on 23 September 1910.

proof of liability and the division of loss were far-reaching and fundamental”¹⁵.

- 2.4 With the introduction¹⁶ of the 1911 Act, the position became one of “Proportionality” — where the greater the fault, the greater the amount of damages payable. This is still the position in England today, under section 187 of the Merchant Shipping Act, 1995.

Repeal in England of 1911 Act

- 2.5 The 1911 Act was repealed in England by the Merchant Shipping Act 1995¹⁷ (“MSA 1995”) which came into force on 1st January 1996. The Table of Derivations in the MSA 1995 showed clearly that sections 187 to 190 and section 312 of the MSA 1995 were derived from the 1911 Act. An extract of the Table of Derivations is set out in **Appendix B**. A comparative table of the provisions of the MSA 1995 and the 1911 Act is set out at **Appendix C**. A comparative table of these provisions with the Singapore MSA is set out at **Appendix D**. From the table at **Appendix D**, it is clear that the provisions of the MSA 1995 derived from the 1911 Act have not been reproduced in the Singapore MSA (Cap.179). The 1911 Act therefore continues to be part of the law of Singapore.

¹⁵ See above at n 8

¹⁶ However, the introduction of the Act in 1911 was still deeply criticised for omitting to include one of the resolutions (Art 8) of the Salvage Convention. It was pointed out by Lord Maugham in the case of *The Beaverford v. The Kafiristan* 16(1937), that “ it seems so desirable, as the Conventions themselves show, that rules on these topics should be uniform that it may well be expedient to take an early opportunity of remedying this omission”, and hence the 1911 Maritime Conventions Act should be amended to include the omitted art 8 of the Salvage Convention. However, despite the comments by the judiciary (Per Lord Atkin in the *Beaverford* case) the amendment was never carried out.

¹⁷ Chapter 21.

PART 3

PROPOSED 2003 REVISED EDITION OF 1911 ACT

- 3.1 This consultation paper seeks views on whether the Law Revision Commissioners should publish a 2003 Revised Edition of the 1911 Act pursuant to section 9(1) of the Application of English Law Act. The proposed Revised Edition is set out at **Appendix A**. In particular, this paper seeks views on the cross-references in the 1911 Act to certain imperial legislation that are not currently part of the law of Singapore.

PART 4

ISSUES FOR DISCUSSION

Issue A

Whether the repeal in section 4(1) of the 1911 Act of section 419(4) of the Merchant Shipping Act 1894 continues to be relevant and should be retained?

- 4.1 Section 4(1) of the 1911 Act repealed section 419(4) (which provided that a ship shall be deemed in fault in a case of collision where any of the collision regulations have been infringed by that ship), of the Merchant Shipping Act 1894¹⁸ (“MSA 1894”). Although the MSA 1894 was extended to the Straits Settlements, it is not listed in the First Schedule to the Application of English Law Act. Neither is section 419 of that Imperial Act applicable to Singapore by virtue of any other written law¹⁹. The MSA 1894 is therefore not applicable to Singapore by virtue of section 5(1) of the Application of English Law Act which provides that no English enactment shall be part of the law of Singapore except as provided in the Act. Section 419 of the MSA 1894 (as at 1911) reads as follows:

419.—(1) All owners and masters of ships shall obey the collision regulations, and shall not carry or exhibit any other lights, or use any other fog signals, than such as are required by those regulations.

(2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of the ship, that master or owner shall, in respect of each offence, be guilty of a misdemeanor.

(3) If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary.

¹⁸ 57 & 58 Vict.c.60.

¹⁹ See section 4(1)(b) of the Application of English Law Act.

(4) Where in a case of collision it is proved to the court before whom the case is tried, that any of the collision regulations have been infringed, the ship by which the regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary.

(5) The Board of Trade shall furnish a copy of the collision regulations to any master or owner of a ship who applies for it.

- 4.2 In the absence of a provision equivalent to section 419(4) of the MSA 1894, the repeal of that provision is only of historical interest and meaningless in the context of Singapore law. It is therefore proposed that section 4(1) be retained without any modification but with an explanatory note appended to the effect that “Section 419(4), Merchant Shipping Act, 1894 not applicable to Singapore and no equivalent provision in any written law”.

Issue B

Whether the cross-reference in section 4(2) of the 1911 Act to section 422 of the Merchant Shipping Act 1894 continues to be relevant and should be retained in the light of the equivalent provision in section 106 of the Singapore Merchant Shipping Act (Cap. 179)?

- 4.3 Section 4(2) of the 1911 Act provides that the failure of the master or person in charge of a vessel to comply with the provisions of section 422 of the MSA 1894 (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default, and accordingly section 422(2) is repealed. Section 422(1) of the MSA 1894 (as at 1911) reads as follows:

422.—(1) In every case of collision between two vessels, it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel crew and passengers (if any),

- (a) to render to the other vessel her master crew and passengers (if any) such assistance as may be practicable, and may be

necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that she has no need of further assistance, and also

(b) to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.

4.4 As the MSA 1894 is not applicable to Singapore by virtue of the Application of English Law Act, section 422 is clearly not applicable to Singapore. Section 106²⁰ of the Singapore Merchant Shipping Act (Cap.179) contains a similar provision as to the duty of a ship to assist the other in case of collision. Even if it could be argued that section 422 of MSA 1894 applies by virtue of section 4(1)(b) of the Application of English Law Act, section 4(3) would operate to provide that section 106 of the local Act would prevail over section 422 of the Imperial Act (MSA 1894).

4.5 Section 4(2) of the 1911 Act seeks to repeal the presumption of fault created by section 422(2). Section 422(2) of the MSA 1894 (as at 1911) reads as follows:

422.—(2) If the master or person in charge of a vessel fails to comply with this section, and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect or default.

²⁰Section 106 is reproduced for easy reference.

106.—(1) In every case of collision between 2 ships, it shall be the duty of the master or, in his absence, the person in charge of each ship, if and so far as he can do so without danger to his own ship, crew and passengers (if any) —

(a) to render to the other ship, its master, crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other ship until he has ascertained that it has no need of further assistance; and

(b) to give to the master or person in charge of the other ship the name of his own ship and of the port to which it belongs, and also the names of the ports from which it came and to which it is bound.

(2) If the master fails without reasonable cause to comply with this section, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 and if he is a certificated officer, an inquiry into his conduct may be held and his certificate may be cancelled or suspended.

- 4.6 But since this presumption of fault is no longer applicable in Singapore, the repeal of section 422(3) is only of historical interest and meaningless in the context of current Singapore law. It is proposed that section 4(2) be retained for historical reference without modification, but with an explanatory note appended to the effect that “Section 422, Merchant Shipping Act, 1894 not applicable to Singapore but see section 106 of the Singapore Merchant Shipping Act (Cap. 179) as to duty of ship to assist the other in case of collision”.

Issue C

Whether the cross-reference in section 9(3) of the 1911 Act to section 25 of the Supreme Court of Judicature Act 1873 (36 & 37 Vict. c. 66) continues to be relevant and should be retained in the light of the fact that this imperial statute is not applicable to Singapore and there is no equivalent provision in Singapore legislation?

- 4.7 Section 9(3) of the 1911 Act provides that the Act shall be applied in all cases heard and determined in any court having jurisdiction to deal with the case and in whatever waters the damage or loss in question was caused or the salvage services in question were rendered, and section 25(9) of the Imperial Supreme Court of Judicature Act, 1873 (36 & 37 Vict.c.66), shall cease to have effect. Section 25(9) states as follows:

25.—(9) In any cause or proceeding for damages arising out of a collision between two ships, if both ships shall be found to have been in fault, the rules hitherto in force in the Court of Admiralty, so far as they have been at variance with the rules in force in the Courts of Common Law, shall prevail.

- 4.8 The Imperial Supreme Court of Judicature Act 1873 is not applicable to Singapore by virtue of the Application of English Law Act and there is no equivalent provision in any other Singapore legislation. The Singapore High Court has historically not been divided into the Court of Admiralty and the Courts of Common Law. In the absence of a provision equivalent to section 25(9), its repeal by section 9(3) of the 1911 Act is only of historical interest and meaningless in the context of Singapore law. It is proposed that no modification be made

to section 9(3) of the 1911 Act but that a note be appended that section 25(9) is *Not applicable to Singapore and no equivalent provision in any written law”.

Issue D

Whether the cross-reference in section 10 of the 1911 Act to the Imperial Merchant Shipping Acts 1894 to 1907 should be retained or should it be replaced by a reference to the Singapore Merchant Shipping Act (Cap 179)?

- 4.9 It appears that the MSA 1894 was at one time prior to the enactment of the Application of English Law Act regarded as imperial legislation applying to the Straits Settlements. In the 5th and 6th Editions of the Chronological Table of Imperial Acts Applicable to the Straits Settlements, 1912 and 1913²¹, the Merchant Shipping Acts of 1894 to 1907 were listed as Imperial Acts applicable to the Straits Settlements. The Note to the Table states that the law of the Straits Settlements comprises such of the Imperial Acts subsequent to 26th November 1826 as apply either to the Straits Settlement especially or the Colonies generally. This explains why our local Merchant Shipping Ordinance and later Merchant Shipping Act (e.g. see that of 1910 and right up to the version in the 1980s) referred to the MSA 1894 as if it were applicable in Singapore. If the MSA 1894 was part of our law, the reference to the MSA 1894 in the 1911 Act would be logical and perfectly understandable.
- 4.10 This is however contradicted by the observation of the Court of Appeal in *Seow Teck Ming v Tan Ah Yeo*²² that the MSA 1894 was never applied directly to the Straits Settlements as part of their law although parts of it were re-enacted by local legislation from time to time. The Court of Appeal also observed that the current Merchant Shipping Act (Cap. 179) was a consolidating and amending Ordinance first enacted as Ordinance No 3 of 1910. The Court of Appeal then went on to hold that section 10 of the 1911 Act does not require the Act to be read with the Singapore Merchant Shipping Act (Cap. 179) but with the Imperial Merchant Shipping Acts 1894 to 1907. In the context of section 10 of the 1911 Act, it is possible to reconcile the

²¹ Compiled by William George Maxwell and revised by A. De Mello, Government Printing Office, Singapore.

²² [1991] SLR 169 per Chan Sek Keong J at p.

Court of Appeal's ruling with its observation that the MSA 1894 was never applied directly to the Straits Settlement. In support of the Court of Appeal's ruling, we would argue that section 10 of the 1911 Act is merely an interpretation provision. Accordingly section 10 operates to apply the provisions of the MSA 1894 to 1907 but limited to the purposes of the interpretation of the provisions of the 1911 Act. Indeed, in *Tan Ah Yeo*, the Court of Appeal applied the MSA 1894 in respect of the interpretation of the word "vessel".

- 4.11 *Tan Ah Yeo* was however decided before the enactment of the Application of English Law Act in 1993. Section 4(3) of the Application of English Law Act provides that "to the extent to which any of the provisions of any English enactment is inconsistent with the provisions of any local Act in force at or after 13th November 1993, the provisions of the local Act will prevail". Further, section 4(4)(e) of the Application of English Law Act provides that in relation to any English enactment specified in the First Schedule, unless the context otherwise requires any reference to a statute or a statutory provision shall, where applicable, be read as a reference to the *corresponding statute* or *statutory provision* in Singapore (emphasis added). In our view, the combined effect of these two provisions applied to section 10 of the 1911 Act is that the MSA 1894 can be applied in the interpretation of the 1911 Act in so far as the provisions are not
- 4.12 inconsistent with the provisions of the local MSA. So if the local MSA has a different definition of "vessel", that definition would prevail over the definition in the Imperial MSA 1894.
- 4.13 It is therefore proposed that section 10 be retained without any modification, but that a note be appended that :

**This Act is to be construed with the provisions of the Merchant Shipping Acts 1894 (57 & 58 Vict.c.50) to 1907 in so far as those provisions are not inconsistent with the provisions of the local Merchant Shipping Act (Cap.179). If provision is inconsistent, local Act will prevail. See section 4(3) of the Application of English Law Act (Cap. 7A) and *Seow Teck Ming v Tan Ah Yeo C. A. [1991] SLR 169*"

- 4.14 This approach is not without its difficulties as explained above. It can be argued that in the light of section 4(4)(e) of the Application of

English Law Act, the reference in section 10 of the 1911 Act should be substituted with a reference to the Singapore Merchant Shipping Act (Cap. 179). We feel however that this approach would ignore the provisions of section 4(3) of the Application of English Law Act and the ruling of the Court of Appeal in *Tan Ah Yeo*. We seek views on which approach should be adopted.

PART 5

SUMMARY OF ISSUES

5.1 On summary, comments are sought on the following issues :

Issue A - Whether the repeal in section 4(1) of the 1911 Act of section 419(4) of the Merchant Shipping Act 1894 continues to be relevant and should be retained?

Issue B - Whether the cross-reference in section 4(2) of the 1911 Act to section 422 of the Merchant Shipping Act 1894 continues to be relevant and should be retained in the light of the equivalent provision in section 106 of the Singapore Merchant Shipping Act (Cap. 179)?

Issue C - Whether the cross-reference in section 9(3) of the 1911 Act to section 25 of the Supreme Court of Judicature Act 1873 (36 & 37 Vict. c. 66) continues to be relevant and should be retained in the light of the fact that this imperial statute is not applicable to Singapore and there is no equivalent provision in Singapore legislation?

Issue D - Whether the cross-reference in section 10 of the 1911 Act to the Imperial Merchant Shipping Acts 1894 to 1907 should be retained or should it be replaced by a reference to the Singapore Merchant Shipping Act (Cap 179)?

APPENDIX A

MARITIME CONVENTIONS ACT 1911

ARRANGEMENT OF SECTIONS

PART I

PROVISIONS AS TO COLLISIONS, & C.

Section

1. Rule as to division of loss
2. Damages for personal injuries
3. Right of contribution
4. Abolition of statutory presumptions of fault
5. Jurisdiction in cases of loss of life or personal injury

PART II

PROVISIONS AS TO SALVAGE

6. General duty to render assistance to persons in danger at sea
7. Apportionment of salvage amongst owners, &c., of foreign ship

PART III

GENERAL PROVISIONS

8. Limitation of actions
9. Application of Act
10. Short title and construction

An Act to amend the Law relating to Merchant Shipping with a view to enabling certain Conventions to be carried into effect.

[16th December 1911*]

WHEREAS at the Conference held at Brussels in 1910 two conventions, dealing respectively with collisions between vessels and with salvage, were signed on behalf of His Majesty, and it is desirable that such amendments should be made in the law relating to merchant shipping as will enable effect to be given to the conventions:

* Application of Act on 1st February 1913 extended to Straits Settlements as part of His Majesty's dominions.

Be it therefore enacted by the King'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:

PART I

PROVISIONS AS TO COLLISIONS, & C.

Rule as to division of loss

1.—(1) Where, by the fault of two or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault, except that if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(2) Nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed.

(3) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(4) For the purposes of this Act, “freight” includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

Damages for personal injuries

2.—(1) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several.

(2) Nothing in this section —

- (a) shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life; or

- (b) shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

Right of contribution

3.—(1) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which she was in fault, they may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault.

(2) No amount shall be recovered under subsection (1) which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(3) In addition to any other remedy provided by law, the persons entitled to any such contribution as aforesaid shall, for the purpose of recovering the same, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

Abolition of statutory presumptions of fault

4.—(1) Subsection (4) of section 419^{*} of the Merchant Shipping Act, 1894 (57 & 58 Vict.c.60) (which provides that a ship shall be deemed in fault in a case of collision where any of the collision regulations have been infringed by that ship), is hereby repealed.

(2) The failure of the master or person in charge of a vessel to comply with the provisions of section 422^{**} of the Merchant Shipping Act 1894 (which imposes a duty upon masters and persons in charge of vessels after a collision to stand by and assist the other vessel) shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default, and accordingly subsection (2) of that section shall be repealed.

* Section 419(4), Merchant Shipping Act, 1894 not applicable to Singapore and no equivalent provision in any written law.

** Section 422, Merchant Shipping Act, 1894 not applicable to Singapore but see section 106 of the Singapore Merchant Shipping Act (Cap. 179) as to duty of ship to assist the other in case of collision.

Jurisdiction in cases of loss of life or personal injury

5. Any enactment which confers on any court Admiralty jurisdiction in respect of damage shall have effect as though references to such damage included references to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem or in personam.

PART II

PROVISIONS AS TO SALVAGE

General duty to render assistance to persons in danger at sea

6.—(1) The master or person in charge of a vessel shall, so far as he can do so without serious danger to his own vessel, her crew and passengers (if any), render assistance to every person, even if such person be a subject of a foreign State at war with His Majesty, who is found at sea in danger of being lost, and, if he fails to do so, he shall be guilty of a misdemeanour.

(2) Compliance by the master or person in charge of a vessel with the provisions of this section shall not affect his right or the right of any other person to salvage.

Apportionment of salvage amongst owners, &c., of foreign ship

7. Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, pilot, crew, and other persons in the service of any foreign vessel, the amount shall be apportioned by the court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

PART III

GENERAL PROVISIONS

Limitation of actions

8.—(1) No action shall be maintainable to enforce any claim or lien against a vessel or her owners in respect of —

- (a) any damage or loss to another vessel, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of

the former vessel, whether such vessel be wholly or partly in fault;
or

(b) any salvage services,

unless proceedings therein are commenced within 2 years from the date when the damage or loss or injury was caused or the salvage services were rendered.

(2) An action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment.

(3) Notwithstanding subsections (1) and (2), any court having jurisdiction to deal with an action to which this section relates —

(a) may, in accordance with the Rules of court, extend any such period, to such extent and on such conditions as it thinks fit; and

(b) shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant vessel within the jurisdiction of the court, or within the territorial waters of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

Application of Act

9.—(1) This Act shall extend throughout His Majesty's dominions* and to any territories under his protection, and to Cyprus.

(2) This Act shall not extend to the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(3) This Act shall not apply in any case in which proceedings have been taken before the passing thereof and all such cases shall be determined as though this Act had not been passed.

(4) The provisions of this Act shall be applied in all cases heard and determined in any court having jurisdiction to deal with the case and in whatever waters the damage or loss in question was caused or the salvage

* Application of Act on 1st February 1913 extended to Straits Settlements as part of His Majesty's dominions.

services in question were rendered, and subsection (9) of section 25^{**} of the Supreme Court of Judicature Act, 1873 (36 & 37 Vict.c.66), shall cease to have effect.

(5) This Act shall apply to any persons other than the owners responsible for the fault of the vessel as though the expression “owners” included such persons.

(6) In any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, this Act shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.

Short title and construction

10. This Act may be cited as the Maritime Conventions Act, 1911, and shall be construed as one with the Merchant Shipping Acts 1894 (57 & 58 Vict.c.50) to 1907.^{**}

^{**} Section 25(9) of the Supreme Court of Judicature Act, 1873 (36 & 37 Vict.c.66), not applicable to Singapore and no equivalent provision in any written law.

^{**} This Act is to be construed with the provisions of the Merchant Shipping Acts 1894 (57 & 58 Vict.c.50) to 1907 in so far as those provisions are not inconsistent with the provisions of the local Merchant Shipping Act (Cap.179). If provision is inconsistent, local Act will prevail. See section 4(3) of the Application of English Law Act (Cap. 7A) and *Seow Teck Ming v Tan Ah Yeo C. A.* [1991] SLR 169”

APPENDIX B

UK Merchant Shipping Act 1995 (c. 21)

1995 Chapter c. 21

Short title and commencement.

316.—(1) This Act may be cited as the Merchant Shipping Act 1995.

(2) This Act shall come into force on 1st January 1996.

Table of Derivations

Notes

1. This Table shows the derivations of the provisions of the Bill.

2. The following abbreviations are used in the Table:—

Acts of Parliament

1911 MC = Maritime Conventions Act 1911 (c. 57)

Provision	Derivation
187(1)	1911 MC s.1(1)
(2)	1911 MC s.1(1) proviso (a)
(3)	1911 MC s.9(4)
(4)	1911 MC s.1(1) proviso (b)
(5)	1911 MC s.1(1) proviso (c)
(6), (7)	1911 MC s.1(2)
188(1)	1911 MC s.2
(2)	1911 MC s.9(4)
(3)	1911 MC s.2 proviso
(4)	1911 MC s.1(2)
189(1)	1911 MC s.3(1)
(2)	1911 MC s.9(4)
(3)	1911 MC s.3(1) proviso
(4)	1911 MC s.3(2)
190(1) to (4)	1911 MC s.8
(5), (6)	1911 MC s.8 proviso
312 (2)	1911 MC s.5

APPENDIX C

COMPARATIVE TABLE OF PROVISIONS OF MARITIME CONVENTIONS ACT 1911 AND UK MERCHANT SHIPPING ACT 1995

UK Merchant Shipping Act 1995 (c. 21)	1911 MC = Maritime Conventions Act 1911 (c. 57)	Remarks
<p>Damage or loss: apportionment of liability</p> <p>187.—(1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was in fault.</p>	<p>Rules as to division of loss</p> <p>1.—(1) Where, by the fault of two or more vessels, damage or loss is caused to one or more of those vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault:</p>	
<p>(2) If, in any such case, having regard to all the circumstances, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.</p>	<p>Rules as to division of loss</p> <p>1—(1) Provided that —</p> <p>(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; and</p>	
<p>(3) This section applies to persons other than the owners of a ship who are responsible for the fault of the ships, as well as to the owners of a ship and where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the ship, this section applies to</p>	<p>Application of Act</p> <p>9— (4) This Act shall apply to any persons other than the owners responsible for the fault of the vessel as though the expression "owners" included such persons, and in any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the</p>	

UK Merchant Shipping Act 1995 (c. 21)	1911 MC = Maritime Conventions Act 1911 (c. 57)	Remarks
the charterers or other persons for the time being so responsible instead of the owners.	navigation and management of the vessel, this Act shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.	
(4) Nothing in this section shall operate so as to render any ship liable for any loss or damage to which the fault of the ship has not contributed.	Rules as to division of loss 1—(1) Provided that — (b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed; and	
(5) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.	Rules as to division of loss 1—(1) Provided that — (c) nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.	
(6) In this section "freight" includes passage money and hire.	Rules as to division of loss 1—(2) For the purposes of this Act, the expression	

Appendix C

UK Merchant Shipping Act 1995 (c. 21)	1911 MC = Maritime Conventions Act 1911 (c. 57)	Remarks
<p>(7) In this section references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.</p>	<p>“freight” includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.</p>	
<p>Loss of life or personal injuries: joint and several liability 188.—(1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships shall be joint and several.</p>	<p>Damages for personal injuries 2. Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several:</p>	
<p>(2) Subsection (3) of section 187 applies also to this section.</p>	<p>Application of Act 9—(4) This Act shall apply to any persons other than the owners responsible for the fault of the vessel as though the expression “owners” included such persons, and in any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, this Act shall be read as though for references to the owners there were</p>	

UK Merchant Shipping Act 1995 (c. 21)	1911 MC = Maritime Conventions Act 1911 (c. 57)	Remarks
	substituted references to the charterers or other persons for the time being so responsible.	
(3) Nothing in this section shall be construed as depriving any person of any right of defence on which, apart from this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in the manner provided by law.	Damages for personal injuries 2—Provided that nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.	
(4) Subsection (7) of section 187 applies also for the interpretation of this section.	Rules as to division of loss 1—(2) For the purposes of this Act, the expression “freight” includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.	
Loss of life or personal injuries: right of contribution 189.—(1) Where loss of life or	Right of contribution 3.—(1) Where loss of life or personal injuries are suffered by any person on board a	

Appendix C

UK Merchant Shipping Act 1995 (c. 21)	1911 MC = Maritime Conventions Act 1911 (c. 57)	Remarks
<p>personal injuries are suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion in which the ship was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault.</p>	<p>vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion in which she was in fault, they may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively in fault:</p>	
<p>(2) Subsection (3) of section 187 applies also to this section.</p>	<p>Application of Act 9—(4) This Act shall apply to any persons other than the owners responsible for the fault of the vessel as though the expression “owners” included such persons, and in any case where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the vessel, this Act shall be read as though for references to the owners there were substituted references to the charterers or other persons for the time being so responsible.</p>	
<p>(3) Nothing in this section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation of, or</p>	<p>Right of contribution 3.—(1) Provided that no amount shall be so recovered which could not, by reason of any</p>	

UK Merchant Shipping Act 1995 (c. 21)	1911 MC = Maritime Conventions Act 1911 (c. 57)	Remarks
<p>exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.</p>	<p>statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.</p>	
<p>(4) In addition to any other remedy provided by law, the persons entitled to any contribution recoverable under this section shall, for the purposes of recovering it, have the same rights and powers as the persons entitled to sue for damages in the first instance.</p>	<p>Right of contribution 3.—(2) In addition to any other remedy provided by law, the persons entitled to any such contribution as aforesaid shall, for the purpose of recovering the same, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.</p>	
<p>Time limit for proceedings against owners or ship 190.—(1) This section applies to any proceedings to enforce any claim or lien against a ship or her owners— (a) in respect of damage or loss caused by the fault of that ship to another ship, its cargo or freight or any property on board it; or (b) for damages for loss of life or personal injury caused by the fault of that ship to any person on board another ship. (2) The extent of the fault is immaterial for the purposes of this section.</p>	<p>Limitation of actions 8. No action shall be maintainable to enforce any claim or lien against a vessel or her owners in respect of any damage or loss to another vessel, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former vessel, whether such vessel be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the</p>	

Appendix C

UK Merchant Shipping Act 1995 (c. 21)	1911 MC = Maritime Conventions Act 1911 (c. 57)	Remarks
<p>(3) Subject to subsections (5) and (6) below, no proceedings to which this section applies shall be brought after the period of two years from the date when—</p> <p>(a) the damage or loss was caused; or</p> <p>(b) the loss of life or injury was suffered.</p> <p>(4) Subject to subsections (5) and (6) below, no proceedings under any of sections 187 to 189 to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal injury shall be brought after the period of one year from the date of payment.</p>	<p>damage or loss or injury was caused or the salvage services were rendered, and an action shall not be maintainable under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment:</p>	
<p>(5) Any court having jurisdiction in such proceedings may, in accordance with rules of court, extend the period allowed for bringing proceedings to such extent and on such conditions as it thinks fit.</p> <p>(6) Any such court, if satisfied that there has not been during any period allowed for bringing proceedings any reasonable opportunity of arresting the defendant ship within—</p> <p>(a) the jurisdiction of the court, or</p>	<p>Limitation of actions</p> <p>8— Provided that any court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court, extend any such period, to such extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant vessel within the jurisdiction of the court, or within the territorial waters of the country to which the plaintiff's ship belongs or in</p>	

UK Merchant Shipping Act 1995 (c. 21)	1911 MC = Maritime Conventions Act 1911 (c. 57)	Remarks
<p>(b) the territorial sea of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his principal place of business, shall extend the period allowed for bringing proceedings to an extent sufficient to give a reasonable opportunity of so arresting the ship.</p>	<p>which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.</p>	
<p>Special provisions for Scots law 312.—(2) Any enactment which confers on any court in Scotland Admiralty jurisdiction in respect of damage shall have effect as if references to damage included reference to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem or in personam.</p>	<p>Jurisdiction in cases of loss of life or personal injury 5. Any enactment which confers on any court Admiralty Jurisdiction in respect of damage shall have effect as though references to such damage included references to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought in rem or in personam.</p>	

APPENDIX D

Comparison of the UK Merchant Shipping Act, 1995 with the Singapore Merchant Shipping Act, 1995

UK Merchant Shipping Act, 1995	Singapore Merchant shipping Act,(Cap 179)
Damage or Loss Apportionment of Liability : s 187 s187(1)	No equivalent provision. Section 138 deals with Part-Owners but it only goes towards excluding or limiting liability.
Loss of Life or Personal Injuries: Joint and Several Liability : s 188	No equivalent provision
Loss of Life or Personal Injuries: Right of Contribution : s 189	No equivalent provision and section 4(1), Contributory Negligence and Personal Injuries Act provides that it “shall not apply to any claims to which section 1 of the Maritime Conventions Act 1911 applies and that Act shall have effect as if this Act had not been passed”.
Time Limit for Proceedings against Owners or ship : s 190	There is no time bar in the Act but there is a time bar of three years imposed for personal injury claims under the Limitation Act.
Special provision for Scots law : s 312	Not applicable