
STATUTORY INSTRUMENTS

1984 No. 862**MERCHANT SHIPPING****POLLUTION****The Prevention of Pollution (Reception Facilities) Order 1984**

<i>Made</i>	- - - -	<i>25th June</i>	1984
<i>Laid before Parliament</i>		<i>3rd July</i>	1984
<i>Coming into Operation</i>		<i>25th July</i>	1984

At the Court at Buckingham Palace the 25th day of June 1984

Present,

The Queen's Most Excellent Majesty in Council

Whereas by virtue of section 20(1)(a) and (c) of the Merchant Shipping Act 1979(a) ("the Act of 1979") Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to:

- (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973 ("the Convention")(b); and
- (b) the Protocol relating to the said Convention which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February 1978 ("the Protocol")(c):

And whereas by virtue of section 20(3)(c) of the Act of 1979 such an Order may repeal the provisions of any enactment so far as it appears to Her Majesty that those provisions are not required having regard to provision made by virtue of the Order:

And whereas this Order is made only for the purpose of giving effect to the Convention and the Protocol:

(a) 1979 c.39.
(b) Cmnd. 5748.
(c) Cmnd. 7347.

Now, therefore, Her Majesty, in exercise of the powers conferred by section 20(1)(a) and (c), (3)(c), (e) and (fa) and (4) of the Act of 1979(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement, interpretation and repeal

1.— (1) This Order may be cited as the Prevention of Pollution (Reception Facilities) Order 1984 and shall come into operation on 25th July 1984.

(2) For the purposes of this Order:

“chemical tanker” means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk and includes an oil tanker when carrying a cargo or part cargo of noxious liquid substances in bulk;

“combination carrier” means a ship designed to carry either oil or solid cargo in bulk;

“harbour authority” means a person or body of persons having, for the time being, the management of a harbour in the United Kingdom;

“harbour in the United Kingdom” means a harbour, port, estuary, haven, dock or other place which contains waters which are within

(a) the sea within the seaward limits of the territorial waters of the United Kingdom; and

(b) all other waters (including inland waters) which are within those limits and are navigable by sea-going ships,

but does not include a terminal within any such harbour managed by a person or body of persons other than the harbour authority;

“noxious liquid substance” means any substance which may be specified by the Secretary of State in regulations made under this Order and any other liquid substance which, when discharged into the sea from tank cleaning or deballasting operations, presents a risk of harm to human health, marine resources, amenities or other legitimate uses of the sea equivalent to that presented by any substance so specified;

“oil” has the same meaning as in the Merchant Shipping (Prevention of Oil Pollution) Regulations 1983(b);

“oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes a combination carrier or a chemical tanker when it is carrying a cargo or part cargo of oil in bulk;

“reception facilities” means facilities which enable vessels to discharge or deposit residues and mixtures, which residues and mixtures contain oil or noxious liquid substances;

“relevant date” means a date upon which reception facilities in accordance with either of the relevant provisions are required to be provided under the provisions of the Convention as amended by the Protocol;

(a) Section 20(3) was amended and paragraph (fa) was substituted by section 49(2) of the Criminal Justice Act 1982 (c.48).

(b) S.I. 1983/1398.

“relevant provision” means either regulation 12 of Annex I or regulation 7 of Annex II of the Convention;

“terminal” means a terminal, jetty, pier or mono-buoy;

“terminal operator” means a person or body of persons having, for the time being, the management of a terminal in the United Kingdom.

(3) The Statutory Instruments Act 1946(a) shall apply to any regulations made under this Order and shall so apply as if such regulations were a statutory instrument.

(4) Section 9 of the Prevention of Oil Pollution Act 1971(b) is hereby repealed.

Application

2.— (1) This Order applies to any harbour authority or terminal operator whose harbour or terminal in the United Kingdom is used by oil tankers, chemical tankers or other vessels any of which are carrying residues or mixtures, which residues or mixtures contain oil or noxious liquid substances, including such vessels when undergoing repair or being broken up.

(2) The Secretary of State may make regulations granting exemptions from all or any of the provisions of this Order to any harbour authority or terminal operator on such terms (if any) as may be specified in the regulations.

Requirement to provide adequate reception facilities

3.— (1) The powers exercisable by a harbour authority in respect of any harbour in the United Kingdom shall include power to provide reception facilities for vessels using the harbour.

(2)(a) Any power of a harbour authority to provide reception facilities shall include power to join with any other person in providing them, and references in this Order to the provision of reception facilities by a harbour authority shall be construed accordingly; and any such power shall also include power to arrange for the provision of such facilities by any other person.

(b) Subject to any directions given by the Secretary of State under Article 4, a harbour authority in respect of its harbour and a terminal operator in respect of its terminal shall ensure that:

(i) if the harbour or terminal has reception facilities, those facilities are adequate, or

(ii) if the harbour or terminal has no such facilities, such facilities are provided

in order to comply, for vessels which may be expected to use the harbour or terminal for a primary purpose other than utilising

(a) 1946 c.36.

(b) 1971 c.60; section 9(8) was amended by the Merchant Shipping Act 1979, section 43(3) and Schedule 6, Part VI, paragraph 16.

reception facilities, with each relevant provision from the relevant date for that provision.

(3) Any harbour authority or terminal operator shall provide the Secretary of State with such information as he directs in respect of any reception facilities provided by it or by arrangement with it at its harbour or its terminal as the case may be.

Direction to provide adequate reception facilities

4. Where in the case of any harbour or terminal in the United Kingdom it appears to the Secretary of State, after consultation with any organisation appearing to the Secretary of State to be representative of owners of vessels registered in the United Kingdom, the harbour authority and, where appropriate, the terminal operator that:

- (a) if the harbour or terminal has reception facilities, those facilities are inadequate, or
- (b) if the harbour or terminal has no such facilities, the harbour or terminal should be provided with such facilities

in order to comply, for vessels which in his opinion may be expected to use the harbour or terminal for a primary purpose other than utilising the reception facilities, with each relevant provision from the relevant date for that provision, the Secretary of State may direct the harbour authority or terminal operator to provide, or arrange for the provision of, such reception facilities as may be specified in the direction.

Use of reception facilities

5.— (1) A harbour authority providing reception facilities, or a person providing such facilities by arrangement with a harbour authority, or a terminal operator providing reception facilities may make reasonable charges for the use of those facilities, and may impose reasonable conditions in respect of the use thereof.

(2) Any reception facilities provided by, or by arrangement with, a harbour authority or by a terminal operator shall be open to all vessels which in the opinion of the harbour authority or terminal operator (as appropriate) are using the harbour or terminal for a primary purpose other than utilising the reception facilities, on payment of any charges, and subject to compliance with any conditions imposed in accordance with paragraph (1).

(3) The master of the vessel shall, prior to any discharge, inform in writing the person providing the reception facilities of the quantity and content of any substances to be discharged.

(4) In the absence of agreement between the owner of the cargo and the owner of the vessel as to responsibility for payment to the person providing the reception facilities, the owner of the vessel shall be liable to pay the charges of that person.

Penalties

6.— (1) Any harbour authority or terminal operator failing to comply with

any direction given under Article 3(3) or 4 above within the period specified in the direction, or within any extended period allowed by the Secretary of State (whether before or after the end of the period so specified), shall be guilty of an offence punishable only on summary conviction by a fine not exceeding £1000.

(2) Any master who, pursuant to Article 5(3) of this Order, provides information as to the quantity or content of substances which he knows to be false in a material particular or recklessly provides such information which is false in a material particular, shall be guilty of an offence punishable only on summary conviction by a fine not exceeding £500.

7. The Secretary of State may make regulations for the extension of any of the provisions of this Order, with or without modifications, to any of the Channel Islands, the Isle of Man, any colony and any country or place outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of the government of the United Kingdom.

N. E. Leigh,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to provisions of the International Convention for the Prevention of Pollution from Ships 1973 (Cmnd. 5748) and the Protocol to that Convention of 1978 (Cmnd. 7347) and applies to harbour authorities and operators of terminals used by vessels (including oil tankers, chemical tankers and vessels undergoing repair or being broken up) carrying residues and mixtures containing oil or noxious liquid substances (Article 2). The Order repeals section 9 of the Prevention of Oil Pollution Act 1971 (Article 1(4)) and re-enacts some of those provisions with modifications.

Harbour authorities are given power to provide reception facilities for such residues and mixtures, and they and terminal operators should ensure that facilities at their harbour or terminal comply with the Convention and Protocol (Article 3). The Secretary of State may, when the facilities appear to him not to comply with such requirements, direct the provision to be made (Article 4). Provision is made for charges and other conditions in respect of the use of such facilities and information to be given by the master before any discharge (Article 5).

The Convention and Protocol require reception facilities for residues and mixtures containing oil to be provided by 2nd October 1984, and those for residues and mixtures containing noxious liquid substances to be provided by 2nd October 1986 or such later date as is determined.

A harbour authority or terminal operator which fails to comply with any direction of the Secretary of State regarding the provision of reception facilities or information regarding them shall be guilty of an offence and liable to a fine not exceeding £1000 on summary conviction. A master who knowingly or recklessly provides false information regarding a substance to be discharged shall be guilty of an offence and liable to a fine not exceeding £500 on summary conviction (Article 6).

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