
STATUTORY INSTRUMENTS

1989 No. 1350

HOVERCRAFT

The Hovercraft (Application of Enactments) Order 1989

Made - - - - - *2nd August 1989*

Coming into force - - - - - *16th August 1989*

At the Court at Buckingham Palace the 2nd day of August 1989

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament and has been approved by a resolution of each House of Parliament in accordance with section 1(4) of the Hovercraft Act 1968(1):

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 1(1)(h) and (3) of the Hovercraft Act 1968(2), 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 and revocation

1.—(1) This Order may be cited as the Hovercraft (Application of Enactments) Order 1989 and shall come into force on the fourteenth day after the day on which it is made.

(2) Article 9 of, and Schedule 4 to, the Hovercraft (Application of Enactments) Order 1972(3) are revoked.

Inquiries and investigations into Hovercraft Casualties

2. Sections 55 to 58 of the Merchant Shipping Act 1970(4) (inquiries and investigations into shipping casualties) and the Merchant Shipping (Formal Investigations) Rules 1985(5) shall apply in relation to hovercraft as they apply in relation to ships, and for that purpose shall have effect subject to the modifications respectively set out in Parts A and B of Schedule 1 to this Order.

(1) 1968 c. 59.

(2) Section 1(1)(h) was extended by paragraph 13 of Schedule 3, to the Merchant Shipping Act 1970 (c. 36), by section 31 of the Prevention of Oil Pollution Act 1971 (c. 60) and by section 48 of the Merchant Shipping Act 1979 (c. 39).

(3) S.I. 1972/971, to which there are amendments not relevant to this Order.

(4) 1970 c. 36; sections 55 and 56 were amended by the Merchant Shipping Act 1979, sections 28(7) and 32(2) and (3).

(5) S.I. 1985/1001.

Prevention of Pollution by Hovercraft

3. The following provisions, that is to say—

The Prevention of Oil Pollution Act 1971(6)

Sections 2(2A), (2B) and (4), 5, 7, 11, 20, 23, 24 and 30.

The Merchant Shipping (Prevention of Oil Pollution Order 1983(7)

Articles 4, 5 and 6.

The Merchant Shipping (Prevention of Oil Pollution) Regulations 1983(8)

Regulations 1 to 12, 14, 16, 25 and 32 to 34; Appendices II and IV of Schedule 1; Appendix 1 of Schedule 2; and Schedule 3.

The Merchant Shipping (Reporting of Pollution Incidents) Regulations 1987(9)

The whole Regulations.

The Merchant Shipping (Control of Pollution by Garbage) Regulations 1988(10)

The whole Regulations.

The Merchant Shipping (Reception Facilities for Garbage) Regulations 1988(11)

The whole Regulations.

shall apply in relation to hovercraft as they apply in relation to vessels and ships, and for that purpose shall have effect subject to the modifications—

- (a) that for any reference to a vessel or a ship, or to vessels or ships (except in the expression “sea-going ships” in section 2(2A) of the said Act of 1971) there shall respectively be substituted a reference to a hovercraft and to hovercraft; and
- (b) that the definition of “ship” in regulation 1 of each of the said Regulations is omitted; and to the further modifications respectively set out in Parts A, B and C of Schedule 2 to this Order.

Safety Regulations

4. Sections 21 and 22 of the Merchant Shipping Act 1979(12) shall apply in relation to hovercraft as they apply in relation to ships, and for that purpose shall have effect subject to the modification that for any reference to a ship, or to ships, there shall respectively be substituted a reference to a hovercraft and to hovercraft.

G. I. de Doney
Clerk of the Privy Council.

(6) 1971 c. 60: section 2 was amended by the Prevention of Oil Pollution Act 1986 (c. 6), section 1; and section 23 by the Petroleum and Submarine Pipe-lines Act 1975 (c. 74), section 45.

(7) S.I. 1983/1106, as amended by S.I. 1985/2002.

(8) S.I. 1983/1398, as amended by S.I. 1985/2040 and the Prevention of Oil Pollution Act 1986, section 1.

(9) S.I. 1987/586.

(10) S.I. 1988/2292.

(11) S.I. 1988/2293.

(12) 1979 c. 39; section 21 was amended by section 49(3) of the Criminal Justice Act 1982 (c. 48) and by section 11 of the Safety at Sea Act 1986 (c. 23); section 22 was amended by Schedule 2 to the County Courts Act 1984 (c. 28).

SCHEDULE 1

Article 2

PART A

modifications of the provisions of the merchant shipping act 1970 applied by article 2

1) For section 55(1) substitute the following subsections (1) and (2), and accordingly renumber subsections (1A) and (2) as (3) and (4):

“(1) Subject to subsection (2) below, where any of the following casualties has occurred, that is to say when a hovercraft—

- (a) has sustained, caused or been involved in any accident occasioning loss of life or any serious injury to any person;
- (b) becomes lost, abandoned, missing or stranded;
- (c) suffers such damage as the result of any accident that its safety is impaired;
- (d) becomes involved in a collision with another hovercraft or a ship; or
- (e) causes any damage;

the Secretary of State—

- (i) may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Secretary of State; and
- (ii) may (whether or not a preliminary inquiry into the casualty has been held) cause a formal investigation into the casualty to be held, if in England, Wales or Northern Ireland, by a wreck commissioner and, if in Scotland, by the sheriff.

(2) Subsection (1) above only applies if—

- (a) the occurrence took place—
 - (i) on or over the sea or other navigable water; or
 - (ii) between the time when any person goes on board the hovercraft for the purpose of making a journey which would involve crossing the sea or other navigable water and the time when it comes to rest at the end of such a journey; or
 - (iii) during the testing or maintenance of a hovercraft which normally makes a journey on or over the sea or other navigable water; and also only
- (b) if at the time the occurrence took place the hovercraft—
 - (i) was registered in the United Kingdom or
 - (ii) was operating unregistered in accordance with any provisions of any Order for the time being in force made under section 1(1)(a) of the Hovercraft Act 1968, or
 - (iii) was within the United Kingdom or United Kingdom territorial waters, or
 - (iv) was not registered under the law of any country but was owned by persons any one of whom is ordinarily resident, or being a company has its principal place of business in the United Kingdom.”.

2) In the subsection renumbered (3), for the words “the preceding subsection” substitute “subsection (1) above”.

3) In section 56(1), omit the words “and, if any question” onwards.

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- 4) Omit section 56(4).
- 5) In section 57(4), omit the words “have decided to cancel or suspend the certificate of any person or” and “decision or”.
- 6) In section 58(1), omit the words “inquiries under sections 52 and 54 of this Act and of”.

PART B

modifications of the merchant shipping (formal investigations) rules 1985 applied by article 2

- 1) In rules 2(1), 4(1) and 7(6), for the word “shipping”, wherever it occurs, substitute “hovercraft”.
- 2) In rule 2(1) in the definition of “an incident” for the words “section 55 (1A)” substitute “section 55(3)”, and omit the definition of “officer”.
- 3) In rule 4(1), omit paragraphs (3) and (4).
- 4) In rule 10, omit the second sentence.
- 5) For rule 12 substitute—

“Result of Formal Investigation

12. At the end of the formal investigation the wreck commissioner shall give a brief summary of his findings in public and make a report on the case to the Secretary of State including his and the assessor's, or assessors' findings as to the reasons for the hovercraft casualty or incident or as to any particular matters relating thereto, or as to the conduct of any person implicated therein.”

- 6) In the Schedule, omit the first four entries and in the entry “Persons of Special Skill or Knowledge” add:—
 - “(c) Persons with special skills or knowledge in the operation of hovercraft.”.

SCHEDULE 2

Article 3

PART A

further modifications of the provisions of the prevention of oil pollution act 1971 applied by article 3

- 1) Omit section 7(2).
- 2) For section 24 substitute:—

“**24.** The provisions of this Act do not apply to military hovercraft (whether owned or operated by or on behalf of Her Majesty's Government or any other Government), but subject to that, they apply to hovercraft owned or operated by or on behalf of any Government Department.”.
- 3) In section 30, omit subsections (2) to (5).

PART B

further modifications of the provisions of the merchant shipping (prevention of oil pollution) regulations 1983 applied by article 3

- 1) In regulation 1(2)—
 - (a) omit the definition of “deadweight”;
 - (b) for the definition of “Government ship” substitute— ““Government hovercraft” means a hovercraft owned or operated by or on behalf of any Government Department;”;
 - (c) omit the definition “lightweight”;
 - (d) omit the definition of “oil tanker” and any provision made in relation thereto;
 - (e) for the definition of “United Kingdom ship” substitute—

““United Kingdom hovercraft” means a hovercraft which—

 - (i) is registered in the United Kingdom, or
 - (ii) is operating unregistered in accordance with any provisions of any Order for the time being in force made under section 1(1)(a) of the Hovercraft Act 1968, or
 - (iii) is not registered under the law of any country but is owned by persons any one of whom is ordinarily resident, or being a company has its principal place of business in, the United Kingdom;”;
 - (f) omit the definition of “volume”;
- 2) In regulation 2(2) for the words “warship, naval auxiliary or other ship” substitute “military, naval or other hovercraft”.
- 3) In regulation 2, omit paragraph (4).
- 4) In regulation 4(1), for the words “and every other United Kingdom ship of 400 GRT and above” substitute “Every United Kingdom hovercraft having a maximum operational weight of 150 tonnes or above”.
- 5) In regulation 7—
 - (a) in paragraph (1)(a), for the words “other ship of 400 GRT and above” substitute “hovercraft having a maximum operational weight of 150 tonnes or above”;
 - (b) for paragraph (7) substitute—

“7) One copy of the appropriate Certificate shall be kept on board every hovercraft which is required by virtue of these Regulations to have one and shall be available for inspection at all reasonable times.”.
- 6) In regulation 10, for paragraph (1) substitute—

“1) Every hovercraft to which these Regulations apply having a maximum operational weight of 150 tonnes or above shall be provided with an Oil Record Book, Part I (Machinery Space Operations), in the form set out in Schedule 2, Appendix 1.”.
- 7) In regulation 12, for paragraph (1) substitute—

“1) Subject to regulation 11, and to paragraph (1A) below, this regulation applies to United Kingdom hovercraft wherever they may be and other hovercraft when they are in the United Kingdom or the territorial waters thereof.

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1A) This regulation does not apply to any discharge within the meaning of these Regulations which occurs landward of the line referred to in section 2(2A)(a) of the Prevention of Oil Pollution Act 1971:

Provided that this shall not affect the operation of so much of paragraph (4) below as prohibits the discharge into the sea of chemicals or other substances in quantities or concentrations which are hazardous to the marine environment.”.

8) In regulation 14—

(a) for paragraph (1) substitute—

“**1)** Every hovercraft having a maximum operational weight of 150 tonnes or above but less than 1,000 tonnes shall be fitted with oily-water separating equipment(100 ppm equipment) complying with paragraph (6) of this regulation. Any hovercraft to which these Regulations apply which carries ballast water in its bunker fuel tanks shall comply with paragraph (2) of this regulation notwithstanding that it has a maximum operational weight of less than 1,000 tonnes.”;

(b) in paragraph (2), for the words “Subject to paragraph (4)” to “apply” substitute “Every hovercraft having a maximum operational weight above 1,000 tonnes”;

(c) in paragraph (3)(b), for the words “ships of less than 400 GRT” substitute “hovercraft having a maximum operational weight of less than 150 tonnes”;

(d) in paragraph (7), for the words “ships less than 10,000 GRT” substitute “hovercraft having a maximum operational weight of less than 1,000 tonnes”.

9) In regulation 16—

(a) in paragraph (2)(a), for the words “United Kingdom ship of 400 GRT and above” substitute “United Kingdom hovercraft having a maximum operational weight of 150 tonnes or above”;

(b) in paragraph (2)(b), for the words “United Kingdom ship of less than 400 GRT” substitute “United Kingdom hovercraft having a maximum operational weight of less than 150 tonnes”.

10) In regulation 25(1), for the words “Every ship of 400 GRT and above” substitute “Every hovercraft having a maximum operational weight of 150 tonnes or above”.

11) In regulation 33(2), for the words “sections 460(1)” to “to the ship” substitute “sections 460(1) and 692 of the Merchant Shipping Act 1894 shall have effect in relation to the hovercraft as they have effect in relation to ships,”.

12) In Appendices II and IV of Schedule 1 and in Appendix I of Schedule 2, for any reference to gross tonnage substitute a reference to maximum operational weight, and in Part I of the said Appendix I, for the words “every ship of 400 tons gross tonnage and above” substitute “every hovercraft having a maximum operational weight of 150 tonnes or above,”.

PART C

further modification of the provisions of the merchant shipping
(reporting of pollution incidents) regulations 1987 applied by article 3

In regulation 3(1)c), omit the words “or Part II of the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies, in relation to hovercraft, sections 55 to 58 of the Merchant Shipping Act 1970, and the Merchant Shipping (Formal Investigation) Rules 1985, making new provision for the purpose of enabling inquiries and investigations under those provisions to be made into casualties involving hovercraft (articles 1 and 2).

Article 3 of the Order applies, in relation to hovercraft, specified provisions relating to the prevention of oil pollution from ships (in which respect it gives effect, in part, to the International Convention for the Prevention of Pollution from Ships 1973 (Cmnd. 5748), including Annex 1 to the Convention as amended by the Protocol to that Convention (Cmnd. 7347)). Article 3 also applies the Regulations dealing with control of pollution by garbage from ships, thus giving effect, in part, to Annex V of the said Convention.

The Order also applies section 21 and 22 of the Merchant Shipping Act 1979 (power to make safety regulations), so that regulations made under section 21 relating to ships may also be made relating to hovercraft (article 4).

In each case the provisions in question are applied subject to appropriate modifications as specified, respectively, in each article and the related Schedules to the Order.