
 STATUTORY INSTRUMENTS

1983 No. 1106

MERCHANT SHIPPING

OIL POLLUTION

The Merchant Shipping (Prevention of Oil Pollution) Order 1983

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| <i>Made - - - -</i> | <i>27th July 1983</i> |
| <i>Laid before Parliament</i> | <i>4th August 1983</i> |
| <i>Coming into Operation</i> | <i>2nd October 1983</i> |

At the Court at Buckingham Palace the 27th day of July 1983

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)(a) of the Act of 1979 such an Order may apply, for the purpose of giving effect to such Convention and Protocol, any enactment relating to the pollution of the sea or other waters:

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 provisions made by this Order:

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

Now, therefore, Her Majesty, in exercise of the powers conferred by section 20(1)(a) and (c), (3) and (4) of the Act of 1979 (d) 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:

1. This Order may be cited as the Merchant Shipping (Prevention of Oil Pollution) Order 1983 and shall come into operation on 2nd October 1983.

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- (a) 1979 c.39.
 - (b) Cmnd. 5748.
 - (c) Cmnd. 7347.
 - (d) Section 20(3) was amended and paragraphs (f) and (fa) were substituted by section 49(2) of the Criminal Justice Act 1982 (c.48).

2. The provisions of the Prevention of Oil Pollution Act 1971 (a) (“the Act of 1971”), the Merchant Shipping Act 1974 (b) and the instruments set out in the Schedule hereto are hereby repealed and revoked subject to the limitations (if any) specified in that Schedule.

3.—(1) The Secretary of State may make regulations for the prevention of oil pollution (hereinafter referred to as “the Regulations”) for the purpose of giving effect to the said Convention and Protocol and the Regulations may in particular include provisions—

- (a) with respect to the carrying out of surveys and inspections for that purpose, and for the issue, duration and recognition of certificates for that purpose and the payment in connection with such a survey, inspection or certificate of fees of amounts determined with the approval of the Treasury;
- (b) with respect to the application of the Regulations to the Crown and the extra-territorial operation of the Regulations;
- (c) for the extension of any provision of this Order or of the Regulations, with or without modification, 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;
- (d) that specified contraventions of the Regulations shall be offences punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
- (e) that any such contraventions shall be offences punishable only on summary conviction by a maximum fine not exceeding level 5 on the standard scale or such less amount as is prescribed by the Regulations;
- (f) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship, for applying section 692 of the Merchant Shipping Act 1894 (c) (which relates to the detention of a ship) with such modifications, if any, as are prescribed by the Regulations;

and the Regulations may—

- (i) make different provisions for different circumstances;
- (ii) provide for exemptions from any provisions of the Regulations;
- (iii) provide for the delegation of functions exercisable by virtue of the Regulations; and
- (iv) include such incidental, supplemental and transitional provisions as appear to the Secretary of State to be expedient for the purposes of the Regulations.

(2) The Statutory Instruments Act 1946 (d) shall apply to Regulations made under this Order, and shall so apply as if such Regulations were a statutory instrument.

4. Section 2(4) of the Act of 1971 (which provides that a person guilty of an offence under that section shall be liable on summary conviction to a fine not exceeding £50,000 or on conviction on indictment to a fine) shall apply in respect of any contravention of the Regulations made under this Order as may be prescribed by those Regulations as it applies to an offence under section 2 of that Act.

(a) 1971 c.60.

(b) 1974 c.43.

(c) 1894 c.60.

(d) 1946 c.36.

5. Sections 55 to 58 of the Merchant Shipping Act 1970(a) (which relate to investigations of shipping casualties) shall apply in respect of any discharge from a ship which may have been made in contravention of any Regulations made under this Order as they apply in relation to any damage caused by a ship.

6. Any discharge of oil or oily mixture from a ship to which any Regulations made under this Order apply which is not prohibited by any such Regulations is authorised by this Order.

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

Article 2

SCHEDULE

ENACTMENTS REPEALED

- (1) The Prevention of Oil Pollution Act 1971:—
 in section 1, subsections (1), (3) and (4) (discharge of certain oils into sea outside territorial waters);
 in section 2, paragraphs (a) and (b) of subsection (1) (discharge of oil from a vessel into United Kingdom waters);
 section 4 (equipment in ships to prevent oil pollution);
 section 8(1) (discharge of certain ballast water into harbours).
- (2) The Merchant Shipping Act 1974, Part II:—
 section 10 (interpretation of Part II);
 section 11 (design and construction of oil tankers);
 section 12 (restrictions on tankers sailing from United Kingdom ports);
 section 13 (restrictions on uncertificated tankers);
 Schedule 2 (oil tankers);
 Schedule 3 (certificated oil tankers).

STATUTORY INSTRUMENTS REVOKED

| Column 1 Instruments revoked | Column 2 References |
|---|------------------------|
| The Oil in Navigable Waters (Ships' Equipment) (No. 1) Regulations 1956 | 1956/1423 |
| The Oil in Navigable Waters (Ships' Equipment) Regulations 1957 | 1957/1424 |
| The Oil in Navigable Waters (Enforcement of Convention) Order 1958 | 1958/1526 |
| The Oil in Navigable Waters (Exceptions) Regulations 1972 | 1972/1928 |

(a) 1970 c.36, amended by ss.28 and 32 of the Merchant Shipping Act 1979 (c.39) and by para. 90 of Schedule 7 to the Magistrates' Courts Act 1980 (c.43).

The Oil in Navigable Waters (Records) Regulations 1972 1972/1929
except to the extent that the Regulations apply to oil tankers of less than 150 gross registered tonnage and other ships of less than 400 gross registered tonnage (and the gross registered tonnage of a ship having alternative such tonnages shall be taken to be the larger of those tonnages).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order enables effect to be given to the International Convention for the Prevention of Pollution from Ships 1973 (Cmnd. 5748) and the Protocol of 1978 (Cmnd. 7347) relating to the Convention. The Order empowers the Secretary of State to make Regulations for the purpose of giving effect to the Convention and Protocol, and in particular with respect to the carrying out of surveys, the issue of certificates, the application of the Regulations to the Crown, the extension of the Order or Regulations to dependent territories, the imposition of penalties and the detention of ships for that purpose.

Specified provisions of the Prevention of Oil Pollution Act 1971, and the Merchant Shipping Act 1974 together with the statutory instruments set out in Schedule 1, will no longer be required once those Regulations are in force and they are accordingly repealed or revoked.

Sections 55 to 58 of the Merchant Shipping Act 1970 (investigations of casualties) are applied in relation to a discharge of oil or oily mixture from certain ships as they apply to damage caused by the ship. Any such discharge from a ship to which Regulations made under this Order apply and which is not prohibited thereby is authorised by this Order. By virtue of section 31(2)(b)(ii) of the Control of Pollution Act 1974 (c.40) any discharge so authorised does not constitute an offence under section 31(1) of that Act.

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