

1987 No. 667

MARINE POLLUTION

**The Food and Environment Protection Act 1985
(Jersey) Order 1987**

Made - - - - - *7th April 1987*
Coming into force *1st May 1987*

At the Court at Windsor Castle, the 7th day of April 1987

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 26(1) and (2) of the Food and Environment Protection Act 1985^(a), 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 Food and Environment Protection Act 1985 (Jersey) Order 1987 and shall come into force on 1st May 1987.
2. In this Order, the expression "the Bailiwick" means the Bailiwick of Jersey and the territorial waters adjacent thereto.
3. Part II (including Schedules 2 to 4) and Part IV of the Food and Environment Protection Act 1985 shall extend to the Bailiwick with the exceptions, adaptations and modifications specified in the Schedule to this Order.

G. I. de Deney
Clerk of the Privy Council

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN THE EXTENSION OF PROVISIONS OF THE FOOD AND ENVIRONMENT PROTECTION ACT 1985 TO THE BAILIWICK OF JERSEY

1. Any reference to, or to a provision of, an Act of Parliament (including the Food and Environment Protection Act 1985) shall be construed, unless the contrary intention appears, as a reference to it as it has effect in the Bailiwick.

2. Except in sections 12 and 24(3), for any reference to—

- (a) the Ministers, one or other of the Ministers or either of the Ministers; or
- (b) a licensing authority;

there shall be substituted a reference to the Committee.

3. In section 5—

- (a) in paragraph (a), for the words “United Kingdom waters” there shall be substituted the words “the Bailiwick”;
- (b) in paragraph (b), the words “British aircraft” in both places where they occur shall be omitted and for the word “British” wherever else it occurs there shall be substituted the word “Jersey”;
- (c) in paragraph (c), for the words “the United Kingdom or United Kingdom waters” in both places where they occur there shall be substituted the words “the Bailiwick”;
- (d) in paragraph (d), for the words “the United Kingdom” there shall be substituted the words “the Bailiwick”;
- (e) in paragraph (e)—
 - (i) in sub-paragraph (i), for the words “United Kingdom waters” there shall be substituted the words “the Bailiwick”;
 - (ii) in sub-paragraph (ii), the words “British aircraft,” shall be omitted and for the word “British” wherever else it occurs there shall be substituted the word “Jersey”;
 - and
 - (iii) in sub-paragraph (iii), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”;
- (f) in paragraph (f), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”;
- (g) in paragraph (g), for the words “the United Kingdom” there shall be substituted the words “the Bailiwick”;
- (h) in paragraph (h), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”.

4. In section 6(1)—

- (a) in paragraph (a)—
 - (i) in sub-paragraph (i) for the words “United Kingdom waters” there shall be substituted the words “the Bailiwick”;
 - (ii) in sub-paragraph (ii), for the word “British” in both places where it occurs there shall be substituted the word “Jersey”;
 - and
 - (iii) in sub-paragraph (iii), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”;
- (b) in paragraph (b), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”.

5. In section 7—

- (a) in subsection (1), for the words “jointly by order made by statutory instrument” there shall be substituted the words “by order”;
- and
- (b) subsection (4) shall be omitted.

6. In section 8—

- (a) in subsection (4)(b), for the words “United Kingdom waters” there shall be substituted the words “the Bailiwick”;
- (b) in subsection (6), the words “, and in Scotland sufficient evidence,” shall be omitted;
- (c) for subsection (7) there shall be substituted the following subsection:—

“(7). The Committee may require an applicant for a licence, on making his application, to pay such reasonable fee in respect of the administrative expenses of processing his application as may be determined by the Committee”;

and

(d) subsection (9) shall be omitted.

7. In section 9(5), for the words "United Kingdom waters" there shall be substituted the words "the Bailiwick".

8. In section 11—

- (a) in subsection (2)(a) and (b), for the words "United Kingdom" there shall be substituted the word "Bailiwick";
- (b) for subsection (2)(c) there shall be substituted the following paragraph:—
" Jersey vessels, Jersey hovercraft and Jersey marine structures, wherever they may be,"; and
- (c) in subsection (3), for the words "British vessel" there shall be substituted the words "Jersey vessel".

9. In section 12, subsection (3) shall be omitted.

10. In section 14, the words "with the consent of the Treasury" shall be omitted.

11. In section 15, subsections (2) to (6) shall be omitted.

12. For section 20 there shall be substituted the following section:—

"20.—(1) Subject to subsection (2) below, a person authorised to enforce Part II of this Act may perform any functions under this Act in relation to land in which there is a Crown interest.

(2) Such a person shall not perform any functions—

- (a) in relation to land in which there is no interest other than a Crown interest; or
- (b) in relation to land which is exclusively in Crown occupation.

(3) In this section—

"Crown interest" means any interest belonging to Her Majesty in right of the Crown; and

"Crown occupation" means occupation by Her Majesty in right of the Crown."

13. In section 21—

- (a) subsections (2), (4) and (5) shall be omitted;
- (b) for subsection (1) there shall be substituted the following subsection:—
"(1) A person guilty of an offence under section 9(1) above shall be liable to a fine or to imprisonment for a term of not more than two years or to both.";
- (c) for subsection (3) there shall be substituted the following subsection:—
"(3) A person guilty of an offence under section 9(2) above or under Schedule 2 to this Act shall be liable to a fine."; and
- (d) in subsection (8), for the words "any place in the United Kingdom" there shall be substituted the words "the Bailiwick".

14. Section 23 shall be omitted.

15. In section 24—

- (a) for subsection (1) there shall be substituted the following subsection:—

"(1) in this Act, unless the context otherwise requires—

"a Board of Administrative Appeal" means a Board constituted in accordance with the Administrative Decisions (Review) (Jersey) Law 1982;

"British fishery limits" has the meaning assigned to it by the Fishery Limits Act 1976(a);

"captain", in relation to a hovercraft, means the person who is designated by the operator to be in charge of it during any journey, or, failing such designation, the person who is for the time being lawfully in charge of it;

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of that aircraft by the operator, or, failing such designation, the person who is for the time being the pilot in command of the aircraft;

“the Committee” means the Harbours and Airport Committee of the States of Jersey;

“Convention State” means a state which is a party to the London Convention or the Oslo Convention;

“incineration” has the meaning assigned to it by section 6 above;

“Jersey hovercraft” means a hovercraft, other than a hovercraft registered in the United Kingdom, owned or operated by an individual resident in, or a body incorporated under the law of, the Bailiwick;

“Jersey marine structure” means a marine structure owned by or leased to an individual resident in, or a body incorporated under the law of, the Bailiwick;

“Jersey vessel” means a vessel registered in Jersey under the Merchant Shipping Act 1894(a) or under any Jersey enactment;

“licence” means a licence under Part II of this Act;

“the London Convention” means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter concluded at London in December 1972;

“marine structure” means a platform or other man-made structure at sea, other than a pipe-line;

“master”, in relation to any vessel, includes the person for the time being in charge of the vessel;

“the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State;

“the Oslo Convention” means the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft concluded at Oslo in February 1972;

“sea” includes any area submerged at mean high water springs and also includes, so far as the tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river;

“vessel” has the meaning assigned to it by section 742 of the Merchant Shipping Act 1894.”; and

(b) in subsection (3)–

(i) the words “or regulations” in both places where they occur shall be omitted; and

(ii) for the words “as the Minister” there shall be substituted the words “as the Committee or the Minister”.

16. Sections 25, 26 and 27 shall be omitted.

17. In Schedule 2–

(a) for paragraph 1 there shall be substituted the following paragraph:–

“1. In this Schedule “officer” means a person authorised to enforce Part II of this Act.”;

(b) in paragraph 3–

(i) in sub-paragraph (1), for the words “Part I or II” there shall be substituted the words “Part II”, and

(ii) sub-paragraphs (3) to (5) shall be omitted;

(c) paragraph 5(3) shall be omitted; and

(d) in paragraph 7–

(i) in sub-paragraphs (1) and (2), for the words “a justice” there shall be substituted the words “the Bailiff”; and

(ii) sub-paragraphs (3) and (4) shall be omitted.

18. In Schedule 3–

(a) for paragraph 5 there shall be substituted the following paragraph:–

“5. If within 28 days of receipt of a notice under this Schedule giving the Committee’s reasons the person to whom the notice is given makes written representations to the Committee concerning the matter to which the notice related, the Committee shall refer the matter to a Board of Administrative Appeal which shall act as if an application for review had been received by it under the Administrative Decisions (Review) (Jersey) Law 1982.”; and

(b) paragraphs 7 to 17 shall be omitted.

(a) 1894 c.60.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the Bailiwick of Jersey, with the exceptions, adaptations and modifications specified in the Schedule to the Order, Part II of the Food and Environment Protection Act 1985 (deposits in the sea) together with certain provisions of Part IV of that Act (general and supplementary) which it appears appropriate to extend there.