1990 No. 2594

HOVERCRAFT

The Hovercraft (Application of Enactments) (Amendment) Order 1990

Made - - - -   *19th December 1990*

Coming into force   *2nd January 1991*

At the Court at Buckingham Palace, the 19th day of December 1990

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(a);

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 1(1)(h) and (3) of the Hovercraft Act 1968(b), 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 Hovercraft (Application of Enactments) (Amendment) Order 1990 and shall come into force on the fourteenth day after which it is made.

2. The Hovercraft (Application of Enactments) Order 1972(c) is amended as follows–

in Part B of Schedule 1 delete the entries relating to the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1983(d), the Mersey Channel (Collision Rules) Order 1978(e) and the River Hull (Navigation) Rules Order 1957(f).

3. The Hovercraft (Application of Enactments) Order 1989(g) is amended as follows–

(a) substitute the following for article 2–

"2. The following enactments shall apply in relation to hovercraft as they apply in relation to ships, and for that purpose shall have effect subject to the modifications set out in Parts A, B and C of Schedule 1 to this Order–

(a) 1968 c.59.
(b) Section 1(1)(h) was extended by paragraph 13 of Schedule 3 to the Merchant Shipping Act 1970 (c.36), by section 48 of the Merchant Shipping Act 1979 (c.39) and by section 49 of the Merchant Shipping Act 1988 (c.12).
(c) S.I. 1972/971; relevant amendment is S.I. 1983/769.
(d) S.I. 1983/708, revoked by S.I. 1989/1798.
(e) S.I. 1978/1914; relevant amendment is S.I. 1990/253.
(f) S.I. 1957/2051; relevant amendment is S.I. 1990/254.
(g) S.I. 1989/1350.

(a) section 728 of the Merchant Shipping Act 1894(**a**);

(b) sections 56 to 58 of the Merchant Shipping Act 1970(**b**);

(c) sections 27 and 28 of the Merchant Shipping Act 1979(**c**);

(d) the Merchant Shipping (Formal Investigations) Rules 1985(**d**).;"

(b) in regulation 3 (Prevention of Pollution by Hovercraft) for "The Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988(**e**)" substitute "The Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1988";

(c) for Schedule 1 substitute the following–

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"   SCHEDULE 1   Article 2

PART A
MODIFICATION OF SECTION 728 OF THE MERCHANT SHIPPING ACT 1894 APPLIED BY ARTICLE 2
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(1) In section 728(a) for "accident or damage" substitute "casualty";

(2) Omit paragraphs (b) and (c).

(3) Add the following as sub-sections (2) and (3)–

"(2) Subject to sub-section (3) below, in this section "casualty" means any occurrence whereby a hovercraft–

 (a) has sustained, caused or been involved in any accident occasioning loss of life or any serious injury to any person;

 (b) became lost, abandoned, missing or stranded;

 (c) suffered such damage as the result of any accident that its safety was impaired;

 (d) became involved in a collision with another hovercraft or a ship; or

 (e) caused any damage.

(3) Subsection (2) 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 went 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 came 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.".

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PART B
MODIFICATIONS OF THE PROVISIONS OF THE MERCHANT SHIPPING ACT 1970 APPLIED BY ARTICLE 2
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(1) For section 56(1) substitute the following–

"(1) Where any casualty has occurred, the Secretary of State may cause a formal investigation into the casualty to be held–

 (a) if in England, Wales or Northern Ireland, by a wreck commissioner, and

 (b) if in Scotland, by the sheriff;

(**a**) 1894 c.60; section 728 was amended by section 26 of the Merchant Shipping Act 1979.

(**b**) 1970 c.36; section 56 was amended by section 32(3) of the Merchant Shipping Act 1979 and by Schedules 5 and 6 to the Merchant Shipping Act 1988; and section 58 was amended by Schedule 6 to the Merchant Shipping Act 1988.

(**c**) 1979 c.39.

(**d**) S.I. 1985/1001, amended by S.I. 1990/123.

(**e**) S.I. 1988/2292.

and in this section "casualty" means any casualty within the meaning of section 728 of the Merchant Shipping Act 1894 (as modified by the Hovercraft (Application of Enactments) Order 1989).

(1A) A wreck commissioner or sheriff holding a formal investigation shall conduct it in accordance with rules under section 58(1) of this Act; and those rules shall require the assistance of one or more assessors.".

(2) Omit section 56(4).

(3) In section 57(4), omit the words "have decided to cancel or suspend the certificate of any person or" and "decision or".

(4) In section 58(1), omit the words "inquiries under sections 52 and 54 of this Act and of".

PART C
MODIFICATIONS OF THE MERCHANT SHIPPING (FORMAL INVESTIGATIONS) RULES 1985 APPLIED BY ARTICLE 2

(1) In rule 2(1), for the definition of "accident" substitute the following–

" "accident" means any casualty to which section 728 of the Merchant Shipping Act 1894 (as modified by the Hovercraft (Application of Enactments) Order 1989) applies;"
and omit the definition of "officer".

(2) In rule 4, omit paragraphs (3) and (4).

(3) In rule 10, omit the second sentence.

(4) 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.".

(5) 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."."

G. I. de Deney
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Hovercraft (Application of Enactments) Order 1972 (S.I. 1972/971) to remove references to the Merchant Shipping (Distress Signals and Prevention of Collision) Regulations 1983 and related instruments, as a consequence of the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1989 and related instruments which apply to hovercraft as well as ships.

The Order also amends the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350) to remove references to section 55 of the Merchant Shipping Act 1970 (power to hold preliminary inquiries) which has been repealed, provides for the application of section 728 of the Merchant Shipping Act 1894 (power to appoint an inspector to report on the nature and causes of casualties) and updates the modifications to the Merchant Shipping (Formal Investigations) Rules 1985 as a result of recent amendments.