
STATUTORY INSTRUMENTS

1992 No. 2668

MARINE POLLUTION

The Merchant Shipping (Prevention and Control of Pollution) (Bermuda) Order 1992

Made - - - - *28th October 1992*
Laid before Parliament *9th November 1992*
Coming into force - - *1st December 1992*

At the Court at Buckingham Palace, the 28th day of October 1992

Present,

The Queen's Most Excellent Majesty in Council

Whereas by virtue of section 20(1)(a)(d) and (2) of the Merchant Shipping Act 1979⁽¹⁾ ("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⁽²⁾ ("the Convention"), and
- (b) any international agreement, not mentioned in paragraphs (a) to (c) of the said section 20(1), which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships including an agreement which provides for modification of, inter alia, the Convention:

And whereas the Marine Environment Protection Committee of the International Maritime Organisation by Resolutions MEPC 16(22) and 21(22) dated 5th December 1985 adopted, in accordance with Article 16(2)(d) of the Convention, amendments relating to Annex II and Protocol I to the Convention:

And whereas the said Annex II to the Convention and the said amendments thereto and the said amendments to the said Protocol I to the Convention came into force internationally on 6th April 1987:

And whereas the said Marine Environment Protection Committee by Resolutions MEPC 32(27), 33(27) and 34(27) dated 17th March 1989 adopted, in accordance with the said Article 16(2)(d)

(1) 1979 c. 39
(2) Cmnd. 5748.

of the Convention, further amendments relating to the said Annex II and the said Protocol I to the Convention:

And whereas the said further amendments to the said Annex II and the said Protocol I to the Convention came into force internationally on 13th October 1990:

And whereas Annex III to the Convention came into force internationally on 1st July 1992:

And whereas Annex V to the Convention came into force internationally on 31st December 1988:

And whereas the said Marine Environment Protection Committee by Resolution MEPC 36(28) dated 17th October 1989 adopted, in accordance with the said Article 16(2)(d) of the Convention, amendments relating to the said Annex V to the Convention:

And whereas the said amendments to the said Annex V to the Convention came into force internationally on 18th April 1991:

And whereas the said Marine Environment Protection Committee by Resolution MEPC 42(30) dated 16th November 1990 adopted, in accordance with the said Article 16(2)(d) to the Convention, further amendments relating to the said Annex V to the Convention:

And whereas the said further amendments to the said Annex V to the Convention came into force internationally on 17th March 1992:

And whereas the said Marine Environment Protection Committee by Resolution MEPC 48(31) dated 4th July 1991 adopted, in accordance with the said Article 16(2)(d) to the Convention, further amendments relating to the said Annex V to the Convention:

And whereas the said further amendments to the said Annex V to the Convention come into force internationally on 4th April 1993:

And whereas by virtue of section 20(3)(e) of the Act of 1979 such an Order may extend to certain territories:

And whereas this Order is made only for the purposes of giving effect in Bermuda to Annexes II, III and V and Protocol I to the Convention as amended as aforesaid:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 20(1)(a)(d)(2)(3) and (4) of the Act of 1979 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 and Control of Pollution) (Bermuda) Order 1992 and shall come into force on 1st December 1992.
2. —The provisions of Article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1987(3) as modified in Schedule 1 hereto, shall extend to Bermuda.
3. —The provisions of Article 3 of the Merchant Shipping (Prevention and Control of Pollution) Order 1990(4) as modified in Schedule 2 hereto, shall extend to Bermuda.
4. —The provisions of Article 2 of the Merchant Shipping (Prevention of Pollution by Garbage) Order 1988(5) as modified in Schedule 3 hereto, shall extend to Bermuda.

(3) S.I. 1987/470, amended by S.I. 1990/2595.

(4) S.I. 1990/2595.

(5) S.I. 1988/2252.

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G. I. de Deney
Clerk of the Privy Council

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SCHEDULE 1

Article 2

ARTICLE 3 OF THE MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) ORDER 1987, AS EXTENDED TO BERMUDA

- 3.—(1) The Governor may make regulations—
- (a) for the prevention of pollution by noxious liquid substances for the purposes of giving effect to the said Annex II to the Convention as amended; and
 - (b) for requiring the reporting of incidents involving pollution or the threat of pollution for the purpose of giving effect to the said Protocol I to the Convention as amended.
- (2) Such regulations may in particular include provisions—
- (a) with respect to the approval of documents and the carrying out of surveys and inspections, and for the issue, duration and recognition of certificates and the payment of fees in connection with such a survey, inspection or certificate;
 - (b) with respect to the application of the regulations to the Crown and the extra-territorial operation of the regulations;
 - (c) that specified contraventions of the regulations shall be offences punishable on summary conviction by a fine not exceeding \$100,000 and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
 - (d) 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⁽⁶⁾ (which relates to the detention of a ship) with such modifications, if any, as are prescribed by the regulations.
- (3) Such regulations may—
- (a) provide that the regulations for the time being in force under Article 3(1) of the Merchant Shipping (Prevention and Control of Pollution) Order 1987 as it applies in the United Kingdom shall, subject to such modifications (if any) as may be specified by the Governor, be deemed to be regulations made by the Governor under this Article;
 - (b) make different provisions for different circumstances;
 - (c) provide for exemptions from any provisions of the regulations;
 - (d) provide for the delegation of functions exercisable by virtue of the regulations;
 - (e) include such incidental, supplemental and transitional provisions as appear to the Governor to be expedient for the purposes of the regulations.

SCHEDULE 2

Article 3

ARTICLE 3 OF THE MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) ORDER 1990, AS EXTENDED TO BERMUDA

3.—(1) The Governor may make regulations for the prevention of pollution by harmful substances carried by sea in packaged form for the purpose of giving effect to the said Annex III to the Convention.

- (2) Such regulations may in particular include provisions—

(6) 1894 c. 60.

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- (a) with respect to the approval of documents and the carrying out of surveys and inspections, and for the issue, duration and recognition of certificates and the payment of fees in connection with such a survey, inspection or certificate;
 - (b) with respect to the application of the regulations to the Crown and the extra-territorial operation of the regulations;
 - (c) that specified contraventions of the regulations shall be offences punishable on summary conviction by a fine not exceeding \$100,000 and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
 - (d) 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 (which relates to the detention of a ship) with such modifications, if any, as such are prescribed by the regulations.
- (3) Such regulations may—
- (a) provide that the regulations for the time being in force under Article 3(1) of the Merchant Shipping (Prevention and Control of Pollution) Order 1990 as it applies in the United Kingdom shall, subject to such modifications (if any) as may be specified by the Governor, be deemed to be regulations made by the Governor under this Article;
 - (b) make different provisions for different circumstances;
 - (c) provide for exemptions from any provisions of the regulations;
 - (d) provide for the delegation of functions exercisable by virtue of the regulations;
 - (e) include such incidental, supplemental and transitional provisions as appear to the Governor to be expedient for the purposes of the regulations.

SCHEDULE 3

Article 4

ARTICLE 2 OF THE MERCHANT SHIPPING (PREVENTION OF POLLUTION BY GARBAGE) ORDER 1988, AS EXTENDED TO BERMUDA

- 2.—**(1) The Governor may make regulations for the prevention of pollution by garbage from ships for the purpose of giving effect to the said Annex V to the Convention as amended.
- (2) The regulations may in particular include provisions—
- (a) with respect to the application of the regulations to the Crown and the extra-territorial operation of the regulations;
 - (b) that specified contraventions of the regulations shall be offences punishable on summary conviction by a fine not exceeding \$100,000 and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
- (3) Such regulations may—
- (a) provide that the regulations for the time being in force under Article 2(1) of the Merchant Shipping (Prevention of Pollution by Garbage) Order 1988 as it applies in the United Kingdom shall, subject to such modifications (if any) as may be specified by the Governor, be deemed to be regulations made by the Governor under this Article;
 - (b) make different provisions for different circumstances;
 - (c) provide for exemptions from any provisions of the regulations.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to Bermuda modified provisions of the Merchant Shipping (Prevention and Control of Pollution) Order 1987, the Merchant Shipping (Prevention and Control of Pollution) Order 1990 and the Merchant Shipping (Prevention of Pollution by Garbage) Order 1988.

The Order enables effect to be given in Bermuda to Annexes II, III and V and Protocol I to the International Convention for the Prevention of Pollution from Ships 1973 as amended by the Protocol thereto of 1978 and by the amendments thereto adopted by the Marine Environment Protection Committee of the International Maritime Organisation at its subsequent sessions.

The Order empowers the Governor to make regulations for the purpose of giving effect to Annex II (which relates to pollution by noxious liquid substances), Annex III (which relates to pollution by harmful substances in packaged form), Annex V (which relates to pollution by garbage) and Protocol I (which relates to reporting of pollution incidents). In particular, the regulations may include provisions with respect to the carrying out of surveys, the issue of certificates, the application of the regulations to the Crown, the imposition of penalties and the detention of ships.

Copies of the Convention, the Annexes and the amendments are obtainable from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.