



Oil in Navigable Waters Act 1971

CHAPTER 21

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ELIZABETH II



1971 CHAPTER 21

An Act to amend the Oil in Navigable Waters Acts 1955 and 1963 and section 5 of the Continental Shelf Act 1964; to make further provision for preventing pollution of the sea by oil; and for purposes connected therewith. [8th April 1971]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. For subsection (1) of section 1 of the Oil in Navigable Waters Act 1955 (which prohibits the discharge of certain oils into certain sea areas) there shall be substituted the following subsection:—

Discharge of certain oils into the sea.

“(1) If any oil to which this section applies or any mixture containing such oil is discharged from a ship registered in the United Kingdom into any part of the sea outside the territorial waters of the United Kingdom, the owner or master of the ship shall, subject to the provisions of this Act, be guilty of an offence under this section.”

1955 c. 25.

2. In section 3 of the Oil in Navigable Waters Act 1955 (discharge of oil into United Kingdom waters) the following shall be substituted for subsection (1):—

Discharge of oil into United Kingdom waters.

“(1) If any oil or mixture containing oil is discharged as mentioned in the following paragraphs into waters to which this section applies, then, subject to the provisions of this Act, the following shall be guilty of an offence under this section, that is to say—

- (a) if the discharge is from a vessel, the owner or master of the vessel, unless he proves that the discharge took place and was caused as mentioned in paragraph (b) of this subsection;

- (b) if the discharge is from a vessel but takes place in the course of a transfer of oil to or from another vessel or a place on land and is caused by the act or omission of a person in charge of any apparatus in that other vessel or that place, the owner or master of that other vessel or, as the case may be, the occupier of that place;
- (c) if the discharge is from a place on land, the occupier of that place unless he proves that the discharge was caused as mentioned in paragraph (d) of this subsection;
- (d) if the discharge is from a place on land and is caused by the act of a person who is in that place without the permission (express or implied) of the occupier, that person;
- (e) if the discharge takes place otherwise than as mentioned in the preceding paragraphs and is the result of any operations for the exploration of the sea-bed and subsoil or the exploitation of their natural resources, the person carrying on the operations ”.

Special
defences.
1955 c. 25.

3.—(1) In section 4(2)(b) of the Oil in Navigable Waters Act 1955 (defence of leakage not due to want of care) for the words “ that the leakage was not due ” there shall be substituted the words “ that neither the leakage nor any delay in discovering it was due ”.

(2) In section 4(3) of that Act (defence of escape not due to want of care) for the words “ that the escape of the oil or mixture was not due ” there shall be substituted the words “ that neither the escape of the oil or mixture nor any delay in discovering it was due ”.

(3) For section 4(4) of that Act there shall be substituted the following subsection:—

“ (4) Where any oil or a mixture containing oil is alleged to have escaped and a person is charged with an offence under the last preceding section as a person carrying on operations for the exploration of the sea bed and subsoil or the exploitation of their natural resources, it shall be a defence to prove that neither the escape nor any delay in discovering it was due to any want of reasonable care and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it ”.

4. For section 7 of the Oil in Navigable Waters Act 1955 Oil records. (which provides for the keeping of records of matters relating to 1955 c. 25. oil) there shall be substituted the following section:—

“7.—(1) The Board of Trade may make regulations requiring oil record books to be carried in ships registered in the United Kingdom and requiring the master of any such ship to record in the oil record book carried by it—

(a) the carrying out, on board or in connection with the ship, of such of the following operations as may be prescribed, that is to say, operations relating to—

(i) the loading of oil cargo, or

(ii) the transfer of oil cargo during a voyage, or

(iii) the discharge of oil cargo, or

(iv) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks, or

(v) the separation of oil from water, or from other substances, in any mixture containing oil, or

(vi) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in the preceding sub-paragraphs, or

(vii) the disposal of any other oil residues;

(b) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life;

(c) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from the ship in consequence of damage to the ship, or by reason of leakage.

(2) The Board of Trade may make regulations requiring the keeping of records relating to the transfer of oil to and from vessels while they are within the seaward limits of the territorial waters of the United Kingdom; and the requirements of any regulations made under this subsection shall be in addition to the requirements of any regulations made under subsection (1) of this section.

(3) Any records required to be kept by regulations made under subsection (2) of this section shall, unless the vessel is a barge, be kept by the master of the vessel, and shall, if the vessel is a barge, be kept, in so far as they relate to the transfer of oil to the barge, by the person supplying the oil and, in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.

(4) Regulations under this section requiring the carrying of oil record books or the keeping of records may—

- (a) prescribe the form of the oil record books or records and the nature of the entries to be made in them;
- (b) require the person providing or keeping the books or records to retain them for a prescribed period;
- (c) require that person, at the end of the prescribed period, to transmit the books or records to a place or person determined by or under the regulations;
- (d) provide for the custody or disposal of the books or records after their transmission to such a place or person.

(5) If any ship fails to carry such an oil record book as it is required to carry under this section the owner or master shall be liable on summary conviction to a fine not exceeding £500; if any person fails to comply with any requirements imposed on him by or under this section, he shall be liable on summary conviction to a fine not exceeding £500; and if any person makes an entry in any oil record book carried or record kept under this section which is to his knowledge false or misleading in any material particular, he shall be liable on summary conviction to a fine not exceeding £500, or imprisonment for a term not exceeding six months, or both, or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.

(6) In any proceedings under this Act—

- (a) any oil record book carried or record kept in pursuance of regulations made under this section shall be admissible as evidence, and in Scotland shall be sufficient evidence, of the facts stated in it;
- (b) any copy of an entry in such an oil record book or record which is certified by the master of the ship in which the book is carried or by the person by whom the record is required to be kept to be a true copy of the entry shall be admissible as evidence, and in Scotland shall be sufficient evidence, of the facts stated in the entry;
- (c) any document purporting to be an oil record book carried or record kept in pursuance of regulations made under this section, or purporting to be such a certified copy as is mentioned in the preceding paragraph, shall, unless the contrary is proved, be presumed to be such a book, record or copy, as the case may be.

(7) Any functions conferred on the Board of Trade by subsection (1) or subsection (2) of this section shall be exercisable concurrently with the Board by the Secretary of State."

5. In section 10(1) of the Oil in Navigable Waters Act 1955 (duty to report discharges) the following shall be substituted for paragraphs (a) and (b)—

Duty to report discharges of oil into waters of harbour.
1955 c. 25.

- “(a) is discharged from a vessel into the waters of a harbour in the United Kingdom; or
- (b) is found to be escaping or to have escaped, from a vessel into any such waters; or”.

6. In section 5(1) of the Continental Shelf Act 1964 (discharge of oil from pipe-lines or as a result of operations for the exploration of the sea bed and subsoil or the exploitation of their natural resources)—

Discharge of oil from pipe-lines or as a result of certain operations.
1964 c. 29.

- (a) for the words “any mixture containing not less than one hundred parts of such oil in a million parts of the mixture” there shall be substituted the words “any mixture containing such oil”; and
- (b) for the words “that he took all reasonable care to prevent it” there shall be substituted the words “that neither the escape nor any delay in discovering it was due to any want of reasonable care”.

7. The limit of the fine that may be imposed on summary conviction in respect of offences committed after the coming into force of this section under section 1 or section 3 of the Oil in Navigable Waters Act 1955 or section 5 of the Continental Shelf Act 1964, shall, instead of the sum of one thousand pounds specified in section 6 of the Oil in Navigable Waters Act 1955 and section 5(2) of the Continental Shelf Act 1964 be the sum of fifty thousand pounds.

Increase of maximum fine for certain offences.

8.—(1) The powers conferred by this section shall be exercisable where—

Shipping casualties.

- (a) an accident has occurred to or in a ship, and
- (b) in the opinion of the Secretary of State oil from the ship will or may cause pollution on a large scale in the United Kingdom or in the waters in or adjacent to the United Kingdom up to the seaward limits of territorial waters, and
- (c) in the opinion of the Secretary of State the use of the powers conferred by this section is urgently needed.

(2) For the purpose of preventing or reducing oil pollution, or the risk of oil pollution, the Secretary of State may give directions as respects the ship or its cargo—

- (a) to the owner of the ship, or to any person in possession of the ship, or
- (b) to the master of the ship, or
- (c) to any salvor in possession of the ship, or to any person who is the servant or agent of any salvor in possession of the ship, and who is in charge of the salvage operation.

(3) Directions under subsection (2) above may require the person to whom they are given to take, or refrain from taking, any action of any kind whatsoever, and without prejudice to the generality of the preceding provisions of this subsection the directions may require—

- (a) that the ship is to be, or is not to be, moved, or is to be moved to a specified place, or is to be removed from a specified area or locality, or
- (b) that the ship is not to be moved to a specified place or area, or over a specified route, or
- (c) that any oil or other cargo is to be, or is not to be, unloaded or discharged, or
- (d) that specified salvage measures are to be, or are not to be, taken.

(4) If in the opinion of the Secretary of State the powers conferred by subsection (2) above are, or have proved to be, inadequate for the purpose, the Secretary of State may, for the purpose of preventing or reducing oil pollution, or the risk of oil pollution, take, as respects the ship or its cargo, any action of any kind whatsoever, and without prejudice to the generality of the preceding provisions of this subsection the Secretary of State may—

- (a) take any such action as he has power to require to be taken by a direction under this section,
- (b) undertake operations for the sinking or destruction of the ship, or any part of it, of a kind which is not within the means of any person to whom he can give directions,
- (c) undertake operations which involve the taking over of control of the ship.

(5) The powers of the Secretary of State under subsection (4) above shall also be exercisable by such persons as may be authorised in that behalf by the Secretary of State.

(6) Every person concerned with compliance with directions given, or with action taken, under this section shall use his best endeavours to avoid any risk to human life.

(7) If the person to whom a direction is duly given under this section contravenes, or fails to comply with, any requirement of the direction, he shall be guilty of an offence under this section.

(8) In proceedings for an offence under subsection (7) above, it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the direction, or that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

(9) If a person wilfully obstructs any person who is acting in compliance with a direction under this section, or who is acting under subsection (4) or (5) of this section, the first mentioned person shall be guilty of an offence under this section.

(10) Her Majesty may by Order in Council provide that this section and Schedule 2 to this Act, together with any other provisions of this Act, shall apply to a ship—

- (a) which is not a ship registered in the United Kingdom, and
- (b) which is for the time being outside the territorial waters of the United Kingdom,

in such cases and circumstances as may be specified in the Order, and subject to such exceptions, adaptations and modifications, if any, as may be so specified.

An Order in Council under this subsection may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient.

(11) Except as provided by an Order in Council under subsection (10) above, no direction under this section shall apply to a ship which is not registered in the United Kingdom and which is for the time being outside the territorial waters of the United Kingdom, and no action shall be taken under subsection (4) or (5) above as respects any such ship.

(12) No direction under this section shall apply to any vessel of Her Majesty's Navy, or to any Government ship, and no action shall be taken under subsection (4) or (5) above as respects any such vessel or ship.

In this subsection "Government ship" has the same meaning as in section 80 of the Merchant Shipping Act 1906.

1906 c. 48.

(13) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction to a fine not exceeding £50,000,
- (b) on conviction on indictment to a fine.

(14) The provisions of this section are without prejudice to any rights or powers of Her Majesty's Government in the United Kingdom exercisable apart from this section whether under international law or otherwise.

(15) Schedule 2 to this Act shall have effect for supplementing this section and this section is in that Schedule referred to as "the principal section".

(16) In this section, unless the context otherwise requires—
 "accident" includes the loss, stranding, abandonment of or damage to a ship,
 "specified", in relation to a direction under this section, means specified by the direction.

Application to hovercraft.
1968 c. 59. **9.** The enactments and instruments with respect to which provision may be made by an Order in Council under section 1(1)(h) of the Hovercraft Act 1968 shall include this Act and any instrument made under it.

Provisions as to Northern Ireland.
Ireland. **10.—(1)** This Act extends to Northern Ireland.
 (2) The provisions of the Oil in Navigable Waters Acts 1955 and 1963 and of this Act, so far as they relate to matters with respect to which the Parliament of Northern Ireland has power to make laws, shall not be taken to restrict that power, and any laws made by that Parliament in the exercise of that power shall have effect notwithstanding anything in those provisions.

Amendments and repeals.
1955 c. 25. **11.—(1)** The Oil in Navigable Waters Act 1955 shall have effect subject to the minor and consequential amendments specified in Schedule 1 to this Act.
 (2) The enactments mentioned in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Citation, construction and commencement.
12.—(1) This Act may be cited as the Oil in Navigable Waters Act 1971.
 (2) This Act shall be construed as one with the Oil in Navigable Waters Acts 1955 and 1963 and those Acts and this Act may be cited together as the Oil in Navigable Waters Acts 1955 to 1971.
 (3) This Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be so appointed for different provisions of this Act.

SCHEDULES

SCHEDULE 1

Section 11(1).

MINOR AND CONSEQUENTIAL AMENDMENTS OF OIL IN NAVIGABLE WATERS ACT 1955

1955 c. 25.

1. In section 1(2) for the words “ a prohibited sea area ” there shall be substituted the words “ any part of the sea outside the territorial waters of the United Kingdom ”.

2. In section 11(5) for the words from “ of any records ” to “ are to be kept ” there shall be substituted the words “ of any oil record book required to be carried or records required to be kept in pursuance of regulations made under section 7 of this Act shall include power to copy any entry therein and require the master ”.

3. In section 11(6) the following shall be substituted for paragraphs (b) and (c):—

“ (b) to require the production of any oil record book required to be carried or records required to be kept in pursuance of regulations made under section 7 of this Act;

(c) to copy any entry in any such book or record and require the master to certify the copy as a true copy of the entry ”.

4. In section 18(1) for the words “ records required to be kept ” there shall be substituted the words “ oil record books required to be carried ”.

5. In section 18(2) for the word “ records ” in both places where it occurs there shall be substituted the words “ oil record books ”.

6. In section 22(3) for the words “ this Act ” there shall be substituted the words “ the provisions of this Act other than section 10 ”.

SCHEDULE 2

Section 8.

SHIPPING CASUALTIES

Right to recover in respect of unreasonable loss or damage

1.—(1) If any action duly taken by a person in pursuance of a direction given to him under the principal section, or any action taken under subsection (4) or (5) of the principal section—

(a) was not reasonably necessary to prevent or reduce oil pollution, or risk of oil pollution, or

(b) was such that the good it did or was likely to do was disproportionately less than the expense incurred, or damage suffered, as a result of the action,

a person incurring expense or suffering damage as a result of, or by himself taking, the action shall be entitled to recover compensation from the Secretary of State.

SCH. 2

(2) In considering whether sub-paragraph (1) above applies, account shall be taken of—

- (a) the extent and risk of oil pollution if the action had not been taken,
- (b) the likelihood of the action being effective, and
- (c) the extent of the damage which has been caused by the action.

(3) Any reference in this paragraph to the taking of any action includes a reference to a compliance with a direction not to take some specified action.

(4) The Admiralty jurisdiction of the High Court of the Court of Session and of the Supreme Court of Northern Ireland shall include jurisdiction to hear and determine any claim arising under this paragraph.

Directions

1948 c. 38.

2.—(1) If the Secretary of State is satisfied that a company or other body is not one to whom section 412 or section 437 of the Companies Act 1948 (service of notices) applies so as to authorise the service of a direction on that body under either of those sections, he may give a direction under the principal section—

- (a) to that body, as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship,
- (b) to that body, as a salvor, by serving the direction on the person in charge of the salvage operations.

(2) For the purpose of giving or serving a direction under the principal section to or on any person on a ship, a person acting on behalf of the Secretary of State shall have the right to go on board the ship.

(3) If a person wilfully obstructs any person acting on behalf of the Secretary of State in connection with the giving or service of a direction under the principal section, the first-mentioned person shall be guilty of an offence under the principal section.

(4) In the application of sub-paragraph (1) above to Northern Ireland for references to sections 412 and 437 of the Companies Act 1948 there shall be substituted references to sections 361 and 385 of the 1960 c. 22. (N.I.) Companies Act (Northern Ireland) 1960.

Ship under arrest

3.—(1) It is hereby declared that any action taken as respects a ship which is under arrest or as respects the cargo of such a ship, being action duly taken in pursuance of a direction given under the principal section, or being any action taken under subsection (4) or (5) of the principal section—

- (a) does not constitute contempt of court, and
- (b) does not in any circumstances make the Admiralty Marshal liable in any civil proceedings.

(2) The reference in this paragraph to the Admiralty Marshal Sch. 2 includes a reference to the Admiralty Marshal of the Supreme Court of Northern Ireland.

SCHEDULE 3
ENACTMENTS REPEALED

Section 11(2).

Chapter	Short Title	Extent of Repeal
3 & 4 Eliz. 2. c. 25.	The Oil in Navigable Waters Act 1955.	Section 2. In section 4, in subsection (3) the words "or as the person in charge of any apparatus". In section 22(1) the definition of "mile". Section 23(7). The Schedule.
1963 c. 28.	The Oil in Navigable Waters Act 1963.	Sections 1 and 2. In Schedule 1, paragraphs 1 and 2(2).

c. 21

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