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# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART VI

#### PREVENTION OF POLLUTION

#### CHAPTER II

#### OIL POLLUTION

*General provisions for preventing pollution*

*Restrictions on transfer of oil at night.*

#### **131 Discharge of oil from ships into certain United Kingdom waters.**

- (1) If any oil or mixture containing oil is discharged as mentioned in the following paragraphs into United Kingdom national waters which are navigable by sea-going ships, then, subject to the following provisions of this Chapter, the following shall be guilty of an offence, that is to say—
  - (a) if the discharge is from a ship, the owner or master of the ship, unless he proves that the discharge took place and was caused as mentioned in paragraph (b) below;
  - (b) if the discharge is from a ship but takes place in the course of a transfer of oil to or from another ship or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other ship or that place, the owner or master of that other ship or, as the case may be, the occupier of that place.
- (2) Subsection (1) above does not apply to any discharge which—
  - (a) is made into the sea; and
  - (b) is of a kind or is made in circumstances for the time being prescribed by regulations made by the Secretary of State.

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- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding [<sup>F1</sup>£250,000];
  - (b) on conviction on indictment, to a fine.
- (4) In this section “sea” includes any estuary or arm of the sea.
- (5) In this section “place on land” includes anything resting on the bed or shore of the sea, or of any other waters included in United Kingdom national waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of the sea or any such waters.
- (6) In this section “occupier”, in relation to any such thing as is mentioned in subsection (5) above, if it has no occupier, means the owner thereof.

#### Textual Amendments

**F1** Sum in s. 131(3)(a) substituted (17.7.1997) by 1997 c. 28, s. 7(1)(2) (with s. 7(5)); S.I. 1997/1539, art. 2, Sch.

#### Modifications etc. (not altering text)

**C1** S. 131(3) applied (28.2.1996) by S.I. 1996/282, art. 3  
 S. 131(3) applied (1.7.1998) by S.I. 1998/1377, reg. 14(2)

### 132 Defences of owner or master charged with offence under section 131.

- (1) Where a person is charged with an offence under section 131 as the owner or master of a ship, it shall be a defence to prove that the oil or mixture was discharged for the purpose of—
- (a) securing the safety of any ship;
  - (b) preventing damage to any ship or cargo, or
  - (c) saving life,
- unless the court is satisfied that the discharge of the oil or mixture was not necessary for that purpose or was not a reasonable step to take in the circumstances.
- (2) Where a person is charged with an offence under section 131 as the owner or master of a ship, it shall also be a defence to prove—
- (a) that the oil or mixture escaped in consequence of damage to the ship, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture; or
  - (b) that the oil or mixture escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

### 133 Defences of occupier charged with offence under section 131

Where a person is charged, in respect of the escape of any oil or mixture containing oil, with an offence under section 131 as the occupier of a place on land, it shall be a defence to prove that neither the escape nor any delay in discovering it was due to

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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.

### **134 Protection for acts done in exercise of certain powers of harbour authorities, etc.**

- (1) Where any oil, or mixture containing oil, is discharged in consequence of—
  - (a) the exercise of any power conferred by section 252 or 253; or
  - (b) the exercise, for the purpose of preventing obstruction or danger to navigation, of any power to dispose of sunk, stranded or abandoned ships which is exercisable by a harbour authority under any local enactment;and apart from this subsection the authority exercising the power, or a person employed by or acting on behalf of the authority, would be guilty of an offence under section 131 in respect of that discharge, the authority or person shall not be convicted unless it is shown that they or he failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping or reducing the discharge.
- (2) Subsection (1) above shall apply to the exercise of any power conferred by section 13 of the <sup>M1</sup>Dockyard Ports Regulation Act 1865 (removal of obstructions to dockyard ports) as it applies to the exercise of the powers under sections 252 and 253, and shall, as so applying, have effect as if references to the authority exercising the power were references to the Queen's harbour master for the port in question.

#### **Marginal Citations**

**M1** 1865 c. 125.

- 135** (1) No oil shall be transferred between sunset and sunrise to or from a ship in any harbour in the United Kingdom unless the requisite notice has been given in accordance with this section or the transfer is for the purposes of a fire brigade.
- (2) A general notice may be given to the harbour master of a harbour that transfers of oil between sunset and sunrise will be frequently carried out at a place in the harbour within such period, not ending later than twelve months after the date on which the notice is given, as is specified in the notice; and if such a notice is given it shall be the requisite notice for the purposes of this section as regards transfers of oil at that place within the period specified in the notice.
- (3) Subject to subsection (2) above, the requisite notice for the purposes of this section shall be a notice given to the harbour master not less than three hours nor more than 96 hours before the transfer of oil begins.
- (4) In the case of a harbour which has no harbour master, references in this section to the harbour master shall be construed as references to the harbour authority.
- (5) If any oil is transferred to or from a ship in contravention of this section, the master of the ship, and, if the oil is transferred from or to a place on land, the occupier of that place, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **136 Duty to report discharge of oil into waters of harbours.**

- (1) If any oil or mixture containing oil—

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- (a) is discharged from a ship into the waters of a harbour in the United Kingdom;  
 or  
 (b) is found to be escaping or to have escaped from a ship into any such waters;  
 the owner or master of the ship shall forthwith report the occurrence to the harbour master, or, if the harbour has no harbour master, to the harbour authority.
- (2) A report made under subsection (1) above shall state whether the occurrence falls within subsection (1)(a) or (b) above.
- (3) If a person fails to make a report as required by this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

VALID FROM 21/03/2000

**[<sup>F2</sup>136A Discharges etc. authorised under other enactments.**

The provisions of sections 131(1) and 136(1) shall not apply to any discharge which is made under, and the provisions of section 136(1) shall not apply to any escape which is authorised by, an authorisation granted under Part I of the <sup>M2</sup>Environmental Protection Act 1990 or a permit granted under regulations under section 2 of the Pollution Prevention and Control Act 1999.]

**Textual Amendments**

**F2** S. 136A inserted (21.3.2000) (E.W.) and otherwise *prosp.*) by 1999 c. 24, ss. 6(1), 7(3), **Sch. 2 para. 13**; S.I. 2000/800, **art. 2**

**Marginal Citations**

**M2** 1990 c. 43.

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