

1987 No. 665

MARINE POLLUTION

**The Food and Environment Protection Act 1985
(Guernsey) 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 (Guernsey) Order 1987 and shall come into force on 1st May 1987.
2. In this Order, the expression "the Bailiwick" means the Bailiwick of Guernsey 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 Denev
Clerk of the Privy Council

SCHEDULE

Article 3

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

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.

(a) 1985 c.48.

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 Board.
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 “Guernsey”;
 - (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 “Guernsey”;
 - 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”; and
 - (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 “Guernsey”; and
 - (iii) in sub-paragraph (iii), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”; and
 - (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; and
 - (c) 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—

“(c) Guernsey vessels, Guernsey hovercraft and Guernsey marine structures, wherever they may be,”; and

(c) in subsection (3)(b), for the words "British vessel" there shall be substituted the words "Guernsey 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) and (4) shall be omitted;
- (b) in subsection (1), for the words "to which this subsection applies" there shall be substituted the words "under section 9(1) above";
- (c) in subsection (3), for the words "to which this subsection applies" there shall be substituted the words "under section 9(2) above"; and
- (d) in subsection (8), for the words "United Kingdom" there shall be substituted the word "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—

"the bailiff" means—

(i) as respects the Islands of Guernsey, Herm and Jethou, the Bailiff,

(ii) as respects the Island of Alderney, the Chairman of the Court of Alderney, and

(iii) as respects the Island of Sark, the Seneschal of Sark;

"the Board" means the States of Guernsey Board of Administration;

"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;

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

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

"Guernsey marine structure" means a marine structure owned by or leased to an individual ordinarily resident in, or a body incorporated under the law of, the Bailiwick;

"Guernsey vessel" means a vessel registered in Guernsey under the Merchant Shipping Act 1894(b) or under any Guernsey enactment;

(a) 1976 c.86.

(b) 1894 c.60.

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

"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;

"the standard scale" means the standard scale as defined in section 75 of the Criminal Justice Act 1982 (a);

"the statutory maximum" means the statutory maximum as defined in section 74 of that Act;

"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 Board 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) paragraphs 16 and 17 shall be omitted;

(b) in paragraph 5, for the words "constitute a committee to" there shall be substituted the words "request the Royal Court to constitute a Tribunal";

(c) for paragraphs 7 and 8 there shall be substituted the following paragraphs–

"7. The Royal Court shall draw up and from time to time revise a panel of persons who are specially qualified in the opinion of the Royal Court to be members of Tribunals constituted under this Schedule and any such Tribunal constituted by the Royal Court shall be drawn from members of that panel.

8. If the Royal Court constitutes a Tribunal, the Royal Court shall appoint one of the members of the Tribunal to be its chairman."; and

(d) in paragraphs 9 to 14, for any reference to a committee there shall be substituted a reference to a Tribunal.

(a) 1982 c.48, extended to the Bailiwick of Guernsey by S.I. 1986/1884.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the Bailiwick of Guernsey, 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.