

Division III  
THE HIGH SEAS<sup>1</sup>

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1. CANADA

(a) OIL POLLUTION PREVENTION REGULATIONS OF 21 SEPTEMBER 1971<sup>2</sup>  
AS AMENDED IN 1973<sup>3</sup>

...

*Interpretation*

2. In these Regulations,

“Canadian waters” means the territorial sea of Canada and all internal waters of Canada;

“discharge” includes, but not so as to limit its meaning, any spilling, leaking, pumping, pouring, emitting, emptying, throwing or dumping;

“heavy diesel oil” means diesel oil, other than those distillates of which more than 50 per cent by volume distills at a temperature not exceeding 340 degrees centigrade when tested by the *American Society for Testing and Materials, Standard Method D.86/59*;

“instantaneous rate of discharge of persistent oil content” means the rate of discharge of persistent oil in litres per hour at any instant divided by the speed of the ship in knots at that instant;

“loading facility” means any shore or sea installation that is used for the loading of oil or an oily mixture on to a ship; “mile” means a nautical mile of 6,080 feet (1,852 metres);

“nearest land” means the base line from which the territorial sea of the territory in question is established in accordance with the *Geneva Convention on the Territorial Sea and the Contiguous Zone*, 1958,<sup>4</sup> except that the base line off the eastern coast of Australia, shall be a line commencing at latitude 11° 00' South, longitude 142° 08' East; thence to latitude 10° 35' South, longitude 142° 55' East; thence to latitude 10° 00' South, longitude 142° 00' East; thence to latitude 9° 10' South, longitude 143° 52' East; thence to latitude 9° 00' South, longitude 144° 30' East; thence to latitude 13° 00'

<sup>1</sup> Some of the texts reproduced under Division II and Division IV also contain provisions relating to the high seas.

<sup>2</sup> P.C. 1971-2005. SOR/71-495. *Canada Gazette*, Part II, vol. 105, No. 19, 13 October 1971. These Regulations revoked the Oil Pollution Prevention Regulations of 17 September 1968 (P.C. 1968-1788) as amended in 1971.

<sup>3</sup> Amended by P.C. 1973-2566, 31 August 1973. SOR/73-500 (*ibid.*, vol. 107, No. 18, 26 September 1973).

<sup>4</sup> United Nations, *Treaty Series*, vol. 516, p. 205. Reproduced in ST/LEG/SER.B/15, pp. 721-728.

South, longitude 144° 00' East; thence to latitude 15° 00' South, longitude 146° 00' East; thence to latitude 18° 00' South, longitude 147° 00' East; thence to latitude 21° 00' South, longitude 153° 00' East; thence to latitude 24° 42' South, longitude 153° 15' East.

“oil” means oil of any kind or in any form and, without limiting the generality of the foregoing, includes petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes, but does not include dredged spoil;

“oily mixture” means a mixture with any oil content;

“persistent oil” means crude oil, fuel oil, heavy diesel oil and lubricating oil;

“persistent oily mixture” means a mixture with any content of persistent oil;

“pollution prevention officer” means a person designated as a pollution prevention officer pursuant to section 740 of the *Canada Shipping Act* as enacted by section 2 of *An Act to amend the Canada Shipping Act*,<sup>1</sup> Chapter 27 of the Statutes of Canada 1970-1971;

“steamship inspector” means a person appointed as a steamship inspector pursuant to section 366 of the *Canada Shipping Act*;

“tanker” means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk that is not, for the time being, carrying a cargo other than oil in that part of its cargo space;

“transfer operation” means

(a) The loading of oil or an oily mixture on to a ship from a loading facility or from another ship;

(b) The unloading of oil or an oily mixture from a ship to an unloading facility or on to another ship; or

(c) The transfer of oil or an oily mixture on board a ship; and

“unloading facility” means any shore or sea installation that is used for the unloading of oil or an oily mixture from a ship.

#### *Prescription of Pollutants*

3. For the purposes of Part XIX of the *Canada Shipping Act*, as enacted by section 2 of *An Act to amend the Canada Shipping Act*,<sup>2</sup> Chapter 27 of the Statutes of Canada 1970-1971, an oily mixture and a persistent oily mixture are prescribed to be pollutants.

#### *Part I*

##### *Canadian Waters and Fishing Zones*

4. This Part applies

(a) To all Canadian waters south of the sixtieth parallel of north latitude;

<sup>1</sup> Reproduced in part in ST/LEG/SER.B/16, pp. 196-207.

<sup>2</sup> *Idem*.

(b) To all Canadian waters north of the sixtieth parallel of north latitude that are not within a shipping safety control zone prescribed pursuant to the *Arctic Waters Pollution Prevention Act*,<sup>1</sup>

(c) To any fishing zones of Canada prescribed pursuant to the *Territorial Sea and Fishing Zones Act*,<sup>2</sup> and

(d) To all ships in waters described in paragraphs (a) to (c) other than ships of war held by or on behalf of Her Majesty in any right.

5. Subject to section 6,

(a) No person shall discharge from any ship; and

(b) No ship shall discharge

oil or an oily mixture into any of the waters described in paragraphs 4 (a) to (c).

6. (1) Section 5 does not apply where oil or oily mixture is discharged from a ship

(a) For the purpose of saving life or preventing the immediate loss of a ship;

(b) Due to damage to or leakage from the ship as a result of stranding, collision or foundering if all reasonable precautions were taken

(i) To avoid the stranding, collision or foundering; and

(ii) To prevent or minimize the discharge; or

(c) Through the exhaust of an engine or by leakage from an underwater machinery component where such discharge is minimal, unavoidable and essential to the operation of the engine or component.

(2) Notwithstanding paragraph (1) (c), section 5 applies where oil or an oily mixture is discharged directly into the water from the crankcase drain of a ship's engine that is manufactured on or after 1 January 1973.

7. Where a ship

(a) Discharges oil or an oily mixture into the water; or

(b) Is in danger of discharging or causing a discharge of oil or an oily mixture into the water,

other than in a manner described in paragraph 6 (1) (c), the master of the ship shall forthwith report the discharge or the danger and the circumstances thereof by radio, or where a radio is not available, by the fastest means available to a pollution prevention officer or steamship inspector at the location listed in Schedule A<sup>3</sup> that is the closest to the ship.

<sup>1</sup> *Statutes of Canada, 1969-1970*, chap. 47. Reproduced in part in ST/LEG/SER.B/16, pp. 183-195.

<sup>2</sup> *Statutes of Canada, 1964*, chap. 22. The Act and its amendments are reproduced in part in ST/LEG/SER.B/15, pp. 52-54 and ST/LEG/SER.B/16, pp. 4-6.

<sup>3</sup> Schedule A is not reproduced here.

*Part II*

*Waters other than Canadian Waters and Fishing Zones*

8. This Part applies to all Canadian ships except
- (a) Tankers of less than 150 tons, gross tonnage;
  - (b) Ships other than tankers, of less than 500 tons, gross tonnage;
  - (c) Ships engaged in the whaling industry, when actually employed in whaling operations; and
  - (d) Naval ships and ships for the time being used as naval auxiliaries, when they are in waters other than
  - (e) The waters described in paragraphs 4 (a) to (c); and
  - (f) Waters north of the sixtieth parallel of north latitude that are within a shipping safety control zone prescribed pursuant to the *Arctic Waters Pollution Prevention Act*.
9. Subject to sections 10 to 12, no ships shall discharge persistent oil or a persistent oily mixture into the water.
10. Persistent oil or a persistent oily mixture may be discharged into the water from a ship other than a tanker where
- (a) The ship is proceeding en route;
  - (b) The instantaneous rate of discharge of persistent oil content does not exceed 60 litres per mile;
  - (c) The persistent oil content of the discharge is less than 100 parts per 1,000,000 parts of the mixture; and
  - (d) The discharge is made as far as practicable from land.
11. (1) Subject to subsections (2) and (3), persistent oil or persistent oily mixture may be discharged into the water from a tanker where
- (a) The tanker is proceeding en route;
  - (b) The instantaneous rate of discharge of persistent oil content does not exceed 60 litres per mile;
  - (c) The total quantity of persistent oil discharged on the voyage does not exceed one fifteen thousandth of the total liquid cargo carrying capacity of the tanker; and
  - (d) The tanker is more than 50 miles from the nearest land.
- (2) Water ballast from a cargo tank of a tanker may be discharged into the water where the tank has, since cargo was last carried therein, been cleaned so that any effluent therefrom, if it were discharged from a stationary tanker into clean calm water on a clear day, would produce no visible traces of persistent oil on the surface of the water.
- (3) Persistent oil or a persistent oily mixture may be discharged into the water from machinery space bilges of a tanker where
- (a) The tanker is proceeding en route;
  - (b) The instantaneous rate of discharge of persistent oil content does not exceed 60 litres per mile;

(c) The persistent oil content of the discharge is less than 100 parts per 1,000,000 parts of the mixture; and

(d) The discharge is made as far as practicable from land.

12. Section 9 does not apply where persistent oil or a persistent oily mixture is discharged into the water from a ship

(a) For the purpose of

(i) Securing the safety of a ship;

(ii) Preventing damage to a ship or its cargo; or

(iii) Saving life; or

(b) Due to damage or to unavoidable leakage from a ship, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage to prevent or minimize the discharge.

13. Where persistent oil or a persistent oily mixture is discharged into the water for a purpose specified in paragraph 12 (a) or in accordance with paragraph 12 (b), the master of the ship shall forthwith report the discharge and the circumstances thereof to the Minister of Transport at Ottawa by radio or, where a radio is not available, by the fastest means available.

### *Part III*

#### *Cargo, Fuel and Ballast Handling*

14. (1) Subject to subsection (2), this Part applies

(a) To the waters described in paragraphs 4 (a) to (c);

(b) To all ships in the waters described in paragraphs 4 (a) to (c) except ships of war held by or on behalf of Her Majesty in any right; and

(c) To all loading facilities and unloading facilities in Canada.

(2) Sections 17 to 22 do not apply to

(a) Tankers of less than 150 tons, gross tonnage; or

(b) Ships other than tankers, of less than 500 tons, gross tonnage.

15. The owner of a ship described in subsection 14 (2) shall

(a) Appoint a person to be in charge of a transfer operation affecting that ship; and

(b) Ensure that all necessary precautions are taken to avoid the discharge of oil or an oily mixture into the water during the transfer operation.

16. (1) The owner of any ship, loading facility or unloading facility shall ensure that any flexible hose or pipe that may be used in a transfer operation is hydraulically tested manually to a pressure equal to one and one half times its maximum working pressure.

...

25. The owner of a loading facility or an unloading facility shall

(a) Appoint a person to be in charge of the facility; and

(b) Provide a sufficient number of persons at the facility to ensure compliance with the provisions of this Part.

...

27. In the event of any emergency related to a transfer operation, nothing in this Part shall prevent

- (a) The master of a ship;
- (b) The officer in charge of the transfer operation for a ship; or
- (c) The person in charge of a transfer operation at
  - (i) A loading facility; or
  - (ii) An unloading facility,

from taking the most effective action that, in his opinion, is necessary to rectify or minimize the conditions that caused the emergency.

#### *Part IV*

##### *General*

28. (1) Sections 29, 31 and 32 apply to Canadian ships while in waters other than waters north of the sixtieth parallel of north latitude that are within a shipping safety control zone prescribed pursuant to the *Arctic Waters Pollution Prevention Act*.

(2) Sections 30 and 31 apply to ships other than Canadian ships while in waters described in paragraphs 4 (a) to (c).

29. Every ship of 150 tons, gross tonnage, or over that carries oil as fuel or cargo shall carry an oil record book in the form specified in Schedule B<sup>1</sup> for that type of ship.

30. Every ship of 150 tons, gross tonnage, or over that carries oil as fuel or cargo shall carry

- (a) An oil record book
  - (i) In the form specified in Schedule B, for that type of ship; or
  - (ii) In a form approved by the country of the ship's nationality for that type of ship; or

(b) An official log book, part of which shall be used as an oil record book, with provision for the entries as set out in Schedule B for that type of ship.

31. (1) The master of every ship to which sections 29 or 30 apply shall ensure that appropriate entries are recorded without delay in the oil record book or official log book of his ship, and that each page thereof is signed by himself and by the officer or officers in charge of the operations for which the entry is made.

...

- (iv) Discharge overboard of bilge water containing oil that has accumulated in the machinery spaces while the ship was in port, and routine discharge at sea of bilge water containing oil; or
- (v) Accidental or other exceptional discharge of oil or an oily mixture.

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<sup>1</sup> Schedule B is not reproduced here.

32. Every ship that carries oil as fuel or cargo shall be fitted
- (a) So as to prevent any oil from leaking or draining into the bilges; or
  - (b) With effective means to ensure that the oil in the bilges is not discharged in contravention of these Regulations.

*Part V*

*Limitation on Cargo Tank Size*

34. (1) This Part applies to every tanker that is
- (a) A Canadian ship; and
  - (b) Not a Canadian ship and that is to be navigated in the waters described in paragraphs 4 (a) to (c), in respect of which, on or after 1 January 1974
  - (c) A building contract has been entered into for its construction; or
  - (d) Where no building contract has been entered into for its construction, the keel is laid, or if no keel is laid, the tanker is in a similar stage of construction.
- (2) This Part does not apply to naval ships or ships for the time being used as naval auxiliaries.
35. (1) The cargo carrying portion of a ship shall be divided into tanks so that the length of each tank shall not exceed the greater of 10 metres, and
- (a) Where no longitudinal bulkhead is provided, 0.1L;
  - (b) Where a longitudinal bulkhead is provided at the centreline only, 0.15L; and
  - (c) Where two or more longitudinal bulkheads are provided;
    - (i) In the case of wing tanks, 0.2L; and
    - (ii) In the case of centre tanks
      - (A) If  $b_i/B$  is equal to or greater than  $1/5$ , 0.2L; or
      - (B) If  $b_i/B$  is less than  $1/5$ ;
        - (I) Where no longitudinal bulkhead is provided at the centre line,  $(0.5 b_i/B + 0.1)L$ ; or
        - (II) Where a longitudinal bulkhead is provided at the centre line,  $(0.25 b_i/B + 0.15)L$ .
- (2) For the purposes of this section,
- (a) "L" means length in metres;
  - (b) "B" means breadth in metres; and
  - (c) "b<sub>i</sub>" means width of adjacent wing tank in metres.
36. (1) The centre tanks and wing tanks of every ship shall be arranged in that ship so that if it sustains the maximum assumed damage by collision or stranding, as calculated in accordance with Schedule C, the maximum

hypothetical oil outflow from the ship, calculated in accordance with that Schedule, would not exceed the greater of

(a) 30,000 cubic metres; and

(b)  $400 \sqrt[3]{\text{deadweight of ship in metric tons}}$  } the result of which shall be read as cubic metres and shall not exceed 40,000 cubic metres.

(2) The volume of a wing tank shall not exceed 75 per cent of the hypothetical oil outflow from the ship calculated in accordance with Schedule C.

(3) The volume of centre tank shall not exceed 50,000 cubic metres.

...

(b) NON-CANADIAN SHIPS COMPLIANCE CERTIFICATE  
REGULATIONS OF 6 MARCH 1973<sup>1</sup>

...

*Interpretation*

2. In these Regulations,

“Act” means the *Canada Shipping Act*;<sup>2</sup>

“Administration” means the Government of the State in which a ship is registered;

“Canadian waters” means the territorial sea of Canada and all internal waters of Canada;

“certificate” means a certificate issued pursuant to these Regulations;

“inspector” means a steamship inspector who has been designated as a pollution prevention officer pursuant to section 731 of the Act;

...

“master” includes every person having command or charge of any ship but does not include a pilot;

“oil” means oil of any kind or in any form and, without limiting the generality of the foregoing, includes petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes, but does not include dredged spoil;

“owner”, in relation to a ship, means the person having for the time being, either by law or by contract, the rights of the owner of the ship as regards the possession and use thereof;

<sup>1</sup> P.C. 1973-547. SOR/73-134, *Canada Gazette*, Part II, vol. 107, No. 6, 28 March 1973. Came into effect on 1 September 1973.

<sup>2</sup> *Revised Statutes of Canada*, 1970, chap. S-9. The Act as amended in 1971 is reproduced in part in ST/LEG/SER.B/16, pp. 196-207.



“Safety Convention” means the International Convention for the Safety of Life at Sea, 1960 signed at London on the 12th day of June, 1960;<sup>1</sup>

“steamship inspector” means a person appointed as a steamship inspector pursuant to section 366 of the Act;

“tanker” means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk that is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

#### *Application*

3. (1) Subject to Subsection (2), these Regulations apply to all ships in

(a) Canadian waters south of the sixtieth parallel of north latitude;

(b) Canadian waters north of the sixtieth parallel of north latitude that are not within a shipping safety control zone prescribed pursuant to the *Arctic Waters Pollution Prevention Act*;<sup>2</sup> and

(c) Any fishing zone of Canada prescribed pursuant to the *Territorial Sea and Fishing Zones Act*.<sup>3</sup>

(2) These Regulations do not apply to

(a) Ships registered in Canada;

(b) Ships other than tankers;

(c) Tankers of less than 500 tons, gross tonnage; and

(d) Naval ships and ships for the time being used as naval auxiliaries.

#### *Certification*

4. (1) Subject to section 5, an inspector, an officer of the Administration or a person authorized to survey ships by

(a) Lloyd’s Register of Shipping;

(b) American Bureau of Shipping;

(c) Bureau Veritas;

(d) Det norske Veritas;

(e) Germanischer Lloyd; or

(f) Registro Italiano Navale

may issue a certificate to the owner or master of a ship that is in waters other than the waters described in paragraphs 3 (1) (a) to (c).

(2) Subject to section 5, an inspector may issue a certificate to the owner or master of a ship that is in the waters described in paragraphs 3 (1) (a) to (c).

<sup>1</sup> United Nations, *Treaty Series*, vol. 536, p. 27.

<sup>2</sup> *Statutes of Canada*, 1969-1970, chap. 47. Reproduced in part in ST/LEG/SER.B/16, pp. 183-195.

<sup>3</sup> *Statutes of Canada*, 1964, chap. 22. The Act and its amendments are reproduced in part in ST/LEG/SER.B/15, pp. 52-54 and ST/LEG/SER.B/16, pp. 4-6.

5. No certificate shall be issued to the owner or master of a ship unless  
 (a) In the case of a Safety Convention ship, the ship complies with section 1 of Schedule A;

(b) In the case of a ship other than a Safety Convention ship, the ship complies with section 2 or 3 of Schedule A, whichever is applicable;

(c) The ship has on board a valid load line certificate; and

(d) The ship complies with the provisions, relating to reconstruction, fitting and equipping of ships, in regulations made under the Act respecting navigating appliances, pollution prevention and limitations on the quantity of pollutants to be carried.

6. A certificate shall be in the form set out in Schedule B.<sup>1</sup>

7. Subject to sections 8 and 9, a certificate issued to the owner or master of a ship pursuant to sections 4 to 6 is a certificate that, pursuant to subsection 730 (2) of the Act, in the absence of any evidence to the contrary, is proof of the compliance of such ship with the requirements of the Act and regulations made thereunder relating to construction, fitting and equipping that are applicable to it or would be applicable to it if it were within the waters described in paragraphs 3 (1) (a) to (c).

8. (1) Subject to subsection (2), a certificate shall be valid for a period of not more than two years from its date of issue.

(2) When an inspector conducts an inspection of a ship and is of the opinion

(a) That the ship does not comply with the essential conditions subject to which a certificate was issued for the ship; and

(b) That the ship is in danger of discharging or causing the discharge of a pollutant into the water,

he may endorse the certificate as invalid.

...

#### SCHEDULE A

1. A Safety Convention ship shall have on board

(a) A valid

(i) Cargo Ship Safety Construction Certificate, or

(ii) Passenger Ship Safety Certificate; and

(b) A valid Exemption Certificate, where the ship has been exempted from any of the provisions of the Safety Convention.

2. Subject to section 3, a ship, other than a Safety Convention ship, shall comply with the requirements of the Safety Convention with respect to the hull and machinery.

3. A ship, other than a Safety Convention ship, that operates solely in the Great Lakes and the St. Lawrence River as far seaward as a straight line drawn

(a) From Cap-des-Rosiers to West Point Anticosti Island; and

<sup>1</sup> Schedule B is not reproduced here.

(b) From Anticosti Island to the north shore of the St. Lawrence River along the meridian of longitude 63 degrees west

shall comply with the inspection requirements for the hull and machinery as required by

(c) The Act; or

(d) In the case of a ship registered in the United States, regulations made by that country.

...

## 2. FINLAND

(a) ACT No. 668 of 22 SEPTEMBER 1972 FOR THE PREVENTION OF OIL DAMAGE CAUSED BY SHIPS<sup>1</sup>

### *Chapter 1*

#### *Regulations concerning ships*

*Article 1.* The discharge of oil or of an oily mixture into the water from a ship shall be prohibited in Finnish waters.

The discharge of oil or of an oily mixture into the water from Finnish tankers of 150 tons gross tonnage or more and from other Finnish ships of 500 tons gross tonnage or more shall also be prohibited outside Finnish waters to the extent prescribed by order.

Exceptions to the prohibition prescribed by the first paragraph which are insignificant from the point of view of the prevention of water pollution may be made by order.

*Article 2.* The provisions of article 1 shall not apply to the escape of oil, or of an oily mixture, resulting from damage to the ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape, nor to the discharge of oil or of an oily mixture into the water from a ship for the purpose of securing the safety of the ship, preventing damage to the ship or cargo, or saving life at sea.

*Article 3.* The meaning, for the purposes of this Act, of the expressions "oil" and "oily mixture" shall be defined by order.<sup>2</sup>

*Article 4.* Such regulations for the prevention of oil damage as relate to the structure, equipment, crews and use of ships may be made by order in so far as concerns:

(1) A Finnish or foreign tanker which transports oil along the coast of Finland in the coasting trade or in Finnish internal waters; or

<sup>1</sup> As provided in article 29, the Act came into effect on 1 November 1972 and superseded Act No. 289/57 of 26 August 1957, as amended, concerning measures for the prevention of oil damage caused by ships. Text provided by the Permanent Representative of Finland to the United Nations in a note verbale of 30 November 1973. Translation by the Secretariat of the United Nations.

<sup>2</sup> See *infra* (b).

(2) any other Finnish ship if the regulations are based on an international agreement or on practice.

*Article 5.* The Inspector of Navigation may prohibit the departure of a ship or interrupt its voyage where there has been on board the ship a serious contravention of the provisions of this Act or of regulations made thereunder, or where there is a question of a restriction of navigation being imposed by virtue of article 6 of this Act, or where for any specific reason a direct risk of oil damage exists in relation to the voyage.

The Inspector of Navigation and the Maritime Patrol and Police Authority shall be entitled to take oil samples for the purpose of determining the origin of oil observed in the water and to interrupt the voyage of a ship for such time as is necessary to take an oil sample.

*Article 6.* The Shipping and Navigation Board shall restrict the navigation of tankers in Finnish waters when, owing to weather or ice conditions or the defective state of a ship or the large size of a ship in relation to the fairway, the Board considers such action necessary in order to avoid a clear risk of oil damage. In so far as possible, advance notice of the restrictions shall be given to navigators.

...

## Chapter 2

### *Prevention of oil damage*

*Article 8.* The organization and development of measures for the prevention of oil damage caused by ships shall be the responsibility of the Shipping and Navigation Board, which shall also be responsible for ensuring that the provisions of this Act and of the regulations made thereunder are complied with.

The local authorities (the commune) shall be responsible within their area of jurisdiction for the prevention of the damage referred to in the first paragraph, in accordance with the provisions of this Act.

For the purposes of this Act, the *authorities responsible for the prevention of oil damage* shall be the Shipping and Navigation Board, a director of preventive action appointed by the Board and, at the local level, the authority given responsibility by the commune for the direction of activities for the prevention of oil damage.

...

*Article 10.* In the case of ports which are regularly visited by tankers, or with especial frequency by other ships, the owner of the port shall provide the necessary equipment and facilities for preventing and limiting oil damage and shall arrange for trained staff to be available for servicing such equipment. The same shall apply, *mutatis mutandis*, to the owner of an industrial or storage establishment that deals with large quantities of oil in the course of its operations and to the owner of a shipyard that carries out ship repairs.

Further regulations concerning the equipment and facilities which must be provided and the extent thereof shall be made by the Ministry of Trade and Industry as required, due account being taken of: the traffic in the port, and especially the number of tankers putting in there; other circumstances having a bearing on the risk of oil damage; and the economic resources of the port, establishment or shipyard in question.

*Article 13.* The Ministry of Trade and Industry may make regulations concerning the obligations of the owner of a port or the owner of an establishment or shipyard as referred to in article 10 to take, in respect of tankers, reasonable advance measures for the prevention of oil damage, such as the provision of a containment boom or the posting of guards.

*Article 14.* Where oil has escaped from a ship into the water or there is a threat of oil leakage by reason of a ship running aground, being disabled by machine failure or suffering any other accident at sea, the master of ship, or, where the area of a port, establishment or shipyard as referred to in article 10 is affected, the owner thereof, shall forthwith report the oil damage or threat thereof to an authority responsible for the prevention of oil damage or to the police and shall take such immediate preventive measures as can reasonably be expected of him. The authorities responsible for the prevention of oil damage shall promptly take the necessary measures to prevent or minimize the damage in so far as the costs incurred by or the damage resulting from such measures are not manifestly disproportionate to the threatened economic or other loss.

In the event of oil escaping or threatening to escape from a ship into the water, the owner of a port, establishment or shipyard as referred to in article 10 shall make his equipment and facilities for the prevention of oil damage and the staff required for the operation thereof available to the authorities responsible for the prevention of oil damage if the said authorities so request.

*Article 15.* Where a ship, in Finnish waters, sinks, runs aground, springs a leak, is disabled by machine failure or otherwise becomes involved in a situation where there is a risk of oil damage, the Shipping and Navigation Board may direct that such rescue or other measures be taken in regard to the ship and its cargo as the Board considers reasonable for the purpose of preventing or minimizing oil damage. Before any such measures are taken, the Shipping and Navigation Board shall consult with representatives of the owner and of the insurers of the ship if this can be done without giving rise to harmful delay.

The provisions of the first paragraph shall apply to a ship owned by a foreign State only if such ship is being used for the purposes of merchant shipping at the time of the incident.

*Article 16.* A person who is liable for damage caused by oil that has escaped into the water, or who has brought about a situation as referred to in article 15, and a shipowner who, under article 11 of Act No. 167/39 (the Maritime Act), is liable for the actions of a person who has brought about such a situation, shall in addition be obliged to pay compensation to the authorities and to the owner or proprietor of the property that was exposed

to danger for the costs incurred by the preventive measures and for damage caused to the ship, its cargo or other property on board the ship by the preventive measures, if the measures were not manifestly unnecessary or inappropriate in the light of the prevailing situation. Even where the shipowner is not liable for the actual or threatened oil damage, he shall be obliged to pay reasonable compensation corresponding to the benefits which he has obtained from the measures referred to in article 15.

If, in a case as referred to in article 15, the damage caused to the ship, its cargo or other property on board the ship exceeds what might ordinarily be expected in the conduct of rescue operations, and if no one can be regarded as liable for the damage in accordance with the provisions of the first paragraph, compensation for the excess portion of the damage shall be paid by the State.

*Article 17.* Where oil damage occurs, or there is a threat of it occurring, on the open sea or in the area of two or more communes, or where the oil damage or the threat thereof is so great that a commune cannot reasonably be required to carry out the preventive action alone, the Shipping and Navigation Board shall take over the action for the prevention of oil damage by appointing a director of preventive action and making the necessary staff, equipment and facilities available to him. In such a case, a commune shall be obliged, in accordance with the instructions of the Shipping and Navigation Board, to make its equipment and facilities for the prevention of oil damage and the staff required for the operation thereof available to the director of preventive action even outside the area of the commune. The corresponding obligation on the part of the owner of a port, establishment or shipyard as referred to in article 10 shall be governed by the provisions of article 14, second paragraph.

To the extent that preventive measures are carried out on the open sea, or to protect the area of another commune, or, in so far as a port, establishment or shipyard as referred to in article 10 is concerned, elsewhere than within or in the immediate vicinity of the area thereof, full compensation for the assistance in the prevention of oil damage which is rendered in pursuance of the foregoing provisions shall be paid by the State.

*Article 18.* The master of a ship which is the cause of oil damage or the threat thereof shall be obliged to give the authorities every assistance which in the circumstances can be demanded for the prevention of oil damage.

### Chapter 3

#### *Fund for Compensation for Oil Damage*

*Article 19.* An extrabudgetary *Fund for Compensation for Oil Damage* shall be established for the payment of compensation for oil damage caused by ships and for the reimbursement of costs which are incurred for the prevention of such damage or which, in pursuance of article 17, second paragraph, are payable by the State. The Fund shall be administered by the Ministry of Trade and Industry, and decisions on the payment of compensation from the Fund shall be made by the Council of State.

*Article 20.* For the purposes of the Fund for Compensation for Oil Damage an *oil protection levy* shall be imposed on imported oil at the rate of 100 marks per 1,000 tons.

The oil protection levy shall be paid by the person who initially reports the oil to the customs authorities for customs clearance.

The oil protection levy shall be collected by the Customs Department in conformity with the relevant provisions of the customs regulations.

#### *Chapter 4*

##### *Supplementary provisions*

*Article 25.* Any person who wilfully or through gross negligence causes oil or an oily mixture to escape into the water in contravention of this Act shall, save where a more severe penalty is otherwise prescribed for such action, be liable, upon conviction, to a fine or to imprisonment for a term not exceeding two years.

Any person who otherwise commits an offence against the provisions of this Act or of the regulations made thereunder shall be liable, upon conviction, to a fine or to imprisonment for a term not exceeding six months.

If the offence was committed with the knowledge and consent of the shipowner, the shipowner shall be subject to the same penalties as the actual offender.

#### (b) ORDER No. 710 of 26 OCTOBER 1972 FOR THE PREVENTION OF OIL DAMAGE CAUSED BY SHIPS<sup>1</sup>

On the proposal of the Minister of Trade and Industry and by virtue of Act No. 668/72 of 22 September 1972 for the prevention of oil damage caused by ships,<sup>2</sup> it is hereby provided as follows:

*Article 1.* For the purposes of Act No. 668/72 for the prevention of oil damage caused by ships, of the present Order and of regulations made under the said Act and Order, and save as otherwise specifically provided:

*"Oil"* means crude oil, all oil products derived therefrom such as fuel oil, lubricating oil and motor spirits, and oil residues;

*"Persistent oil"* means crude oil, heavy fuel and diesel oil, lubricating oil and other oil products of a similar consistency, and oil residues;

*"Light oil"* means petrol, kerosene, light diesel oil and other oil products of a similar consistency;

*"Heavy diesel oil"* means diesel oil, other than those diesel oils of which more than 50 per cent by volume distils at a temperature not exceeding 340°C. when tested by A.S.T.M. Standard Method D. 86/59;

<sup>1</sup> Text provided by the Permanent Representative of Finland to the United Nations in a note verbale of 30 November 1973. Translation by the Secretariat of the United Nations. For the entry into force and the status of previous legislation, see article 12.

<sup>2</sup> *Supra* (a).

*"Oily mixture"* means a mixture which contains persistent oil, or a mixture with a light-oil content of more than 100 parts in 100,000 parts of the mixture;

*"Ship"* means any sea-going vessel of any type whatsoever, including floating craft, whether self-propelled or towed by another vessel;

*"Tanker"* means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space;

*"Oil damage"* means damage caused by the outflow of oil into the water from a ship.

The Act referred to in the first paragraph shall be designated in this Order as the "Oil Damage Act".

*Article 2.* In addition to what is provided in article 1, first paragraph, of the Oil Damage Act, the discharge of persistent oil or an oily mixture containing persistent oil into the water from a Finnish tanker of 150 tons gross tonnage or more and from any other Finnish ship of 500 tons gross tonnage or more shall also be prohibited outside Finnish waters.

*Article 3.* Notwithstanding the provisions of article 2, it shall be permissible on the open sea:

(1) for an oily mixture of less than 100 parts of oil in 1,000,000 parts of the mixture to be discharged from a ship under way, other than a tanker, if the amount of oil released into the water does not at any time exceed 60 litres per nautical mile covered by the ship and the discharge of the mixture into the water is made as far as practicable from the nearest land;

(2) for oily bilge-water to be discharged from the machinery spaces of a tanker, subject to the restrictions specified in subparagraph (1);

(3) for oil or an oily mixture to be discharged from a tanker in ballast when it is more than 50 nautical miles from the nearest land, if the amount of oil released into the water does not at any time exceed 60 litres per nautical mile covered by the ship and the total amount of oil released into the water while the ship is under way does not exceed 1/15,000th part of the cargo capacity of the tanker.

It shall also be permissible for ballast from the cargo tanks of tankers to be discharged into the water if the degree of cleanliness of the ballast is such that no trace thereof, even when the vessel is at rest, would be visible on a clean and calm water surface on a clear day.

The Ministry of Trade and Industry may completely prohibit the discharge of oil and oily mixtures into the waters of the Gulf of Finland, the Gulf of Bothnia and the Baltic Sea.

For the purposes of this article, the term "land", subject to the limits specified by the Shipping and Navigation Board, shall be considered to include the Great Barrier Reef off the north-east coast of Australia.

*Article 4.* Finnish tankers of 150 tons gross tonnage or more and other Finnish ships of 500 tons gross tonnage or more may not be used for



navigation unless such tanker or ship, so far as is reasonable and practicable, is so fitted as to prevent oil from draining into the bilges of the ship or the ship is equipped with effective means to prevent oil in the bilges from being discharged into the sea in contravention of the provisions of the Oil Damage Act or of this Order.

The transport of water ballast in fuel tanks shall be permitted only if the stability of the ship cannot be ensured in any other manner.

...  
*Article 7.* An oil record book in a form specified by the Shipping and Navigation Board shall be carried in a Finnish tanker of 150 tons gross tonnage or more and in any other Finnish ship of 500 tons gross tonnage or more in which oil is used as a fuel, and the entries in such record book shall be made by the master or, under his supervision, by another officer.

The competent authorities and, while the ship is in a foreign port, the competent foreign authorities may inspect the oil record book and may, on request, obtain from the master a certified true copy of any entry therein. Any action by the authorities in pursuance of the provisions of this paragraph shall be taken as expeditiously as possible, and the ship shall not be delayed.

The oil record book shall be kept in such a place as to be readily available for inspection, and it shall be preserved for a period of two years after the last entry has been made.

The provisions of the second paragraph shall also apply, *mutatis mutandis*, to the oil record book or corresponding entries of a foreign ship when the ship is in a Finnish port.

...  
*Article 12.* This Order shall come into effect on 1 November 1972, provided that the provisions of article 5 shall apply only to:

- A ship for which the building contract is placed after 1 June 1973;
- A ship the delivery of which is after 1 January 1977; and
- As from 1 January 1975 or such later day as is specified by the Ministry of Trade and Industry, any other ship for which the building contract was placed after 1 January 1972.

Until such time as the Ministry of Trade and Industry provides otherwise, but not later than the end of the year 1973, oil or an oily mixture may be discharged into the water from a Finnish ship outside Finnish waters even if the limits prescribed by the first paragraph of article 3 are exceeded, on condition that it is not possible in practice to comply with the limits and that the oil or mixture cannot be retained on board until such port of destination is reached at which it would be possible for the oil or mixture to be removed from the ship. It shall be compulsory, however, in this connexion to comply with the limitations deriving from the International Convention of 1954 for the Prevention of Pollution of the Sea by Oil, as amended in 1962.<sup>1</sup>

<sup>1</sup> United Nations, *Treaty Series*, vol. 327, p. 3. The Convention of 1954 as amended in 1962 is reproduced in ST/LEG/SER.B/15, pp. 787-799.

This Order shall supersede Order No. 290/57 of 26 August 1957, as subsequently amended, on measures for the prevention of oil damage caused by ships.

### 3. FRANCE

LOI No 64-1331 DU DECEMBRE 1964 REPRIMANT LA POLLUTION DES EAUX DE LA MER PAR LES HYDROCARBURES<sup>1</sup>, MODIFIEE PAR LA LOI No 73-477 DU 16 MAI 1973<sup>2</sup>

*Article 1<sup>er</sup>.* Sera puni d'une amende de 10 000 F à 100 000 F et d'un emprisonnement de trois mois à deux ans, ou de l'une de ces deux peines seulement, et, en cas de récidive, du double de ces peines, tout capitaine d'un bâtiment français soumis aux dispositions de la convention internationale pour la prévention de la pollution des eaux de la mer par les hydrocarbures, signée à Londres le 12 mai 1954, et de ses modificatifs<sup>3</sup>, qui se sera rendu coupable d'infraction aux dispositions de l'article 3 de ladite convention relatif aux interdictions de rejet à la mer d'hydrocarbures ou de mélanges d'hydrocarbures.

*Article 2.* Sera puni d'une amende de 3 000 F à 30 000 F et, en cas de récidive, d'un emprisonnement de dix jours à six mois et d'une amende de 6 000 F à 60 000 F, ou de l'une de ces deux peines seulement, tout capitaine d'un bâtiment français non soumis aux dispositions de la convention internationale mentionnée à l'article premier et appartenant aux catégories suivantes, à l'exception des bâtiments de la marine nationale, qui aura commis les actes interdits par les dispositions précitées :

- a) Navires-citernes;
- b) Autres navires, lorsque la puissance installée de leur machine propulsive dépasse un chiffre fixé par décret en Conseil d'Etat;
- c) Engins portuaires, chalands et bateaux-citernes fluviaux, qu'ils soient automoteurs, remorqués ou poussés.

*Article 3.* Les peines visées aux articles 1<sup>er</sup> et 2 seront prononcées suivant la distinction faite auxdits articles lorsque les actes interdits à l'article 3 de la convention mentionnée à l'article 1<sup>er</sup> auront été commis, dans les eaux intérieures françaises fréquentées normalement par les bâtiments de mer, par le capitaine d'un bâtiment français auquel s'applique soit l'article 2 de ladite convention, soit l'article 2 de la présente loi.

*Article 3 bis.* Sans préjudice des peines prévues aux articles 1<sup>er</sup>, 2 et 3 à l'égard du capitaine, si l'infraction a été commise sur ordre du propriétaire ou de l'exploitant du navire, ce propriétaire ou cet exploitant sera puni des peines prévues auxdits articles, le maximum de ces peines étant toutefois porté au double.

<sup>1</sup> Reproduite dans ST/LEG/SER.B/15, p. 487-489.

<sup>2</sup> *Journal officiel*, 17 mai 1973. Aux termes de son article 3, la loi est applicable dans les territoires d'outre-mer.

<sup>3</sup> Nations Unies, *Recueil des Traités*, vol. 327, p. 3, et vol. 600, p. 332. Le texte anglais de la Convention modifié par les amendements de 1962 est reproduit dans ST/LEG/SER.B/15, p. 787-799.

Tout propriétaire ou exploitant d'un bâtiment qui n'aura pas donné au capitaine l'ordre écrit de se conformer aux dispositions de l'article 3 de la convention de Londres et aux obligations prévues aux articles 2 et 3 ci-dessus pourra être retenu comme complice de l'infraction prévue aux articles 1<sup>er</sup>, 2 et 3 ci-dessus.

*Article 4.* Dans les eaux territoriales françaises et dans les eaux intérieures françaises fréquentées normalement par les bâtiments de mer, les dispositions de la présente loi s'appliquent aux bâtiments étrangers même immatriculés dans un territoire relevant d'un gouvernement non contractant, et y compris les catégories de bâtiments énumérées à l'article 2 ci-dessus.

*Article 5.* Sont habilités à constater les infractions aux dispositions des articles 3 et 9 de la convention mentionnée à l'article 1<sup>er</sup>, aux dispositions réglementaires qui étendent l'application dudit article 9, et à celles de la présente loi :

Les administrateurs des affaires maritimes;

Les inspecteurs de la navigation et du travail maritimes;

Les inspecteurs-mécaniciens;

Les ingénieurs des ponts et chaussées et les ingénieurs des travaux publics de l'Etat chargés de services maritimes;

Les ingénieurs des mines et les ingénieurs des travaux publics de l'Etat affectés au service des mines des circonscriptions minéralogiques intéressées;

Les officiers de port et officiers de port adjoints;

Les agents des douanes;

Et, à l'étranger, les consuls de France, à l'exclusion des agents consulaires.

En outre, les infractions aux dispositions de l'article 3 de la convention pourront être constatées par les commandants des bâtiments de la marine nationale.

Sont chargés de rechercher les infractions constituant le délit de pollution des eaux de la mer, de recueillir à cet effet tous renseignements en vue de découvrir les auteurs de ces infractions et d'en rendre compte soit à un administrateur des affaires maritimes, soit à un officier de police judiciaire :

Les agents de la police de la navigation et de la surveillance des pêches maritimes;

Les commandants des navires océanographiques de l'Etat;

Les chefs de bord des aéronefs militaires, des aéronefs de la protection civile et des aéronefs de l'Etat affectés à la surveillance des eaux maritimes;

Les agents des services des phares et balises;

Les agents de l'institut scientifique et technique des pêches maritimes;

Et les agents de la police de la pêche fluviale.

*Article 6.* Les procès-verbaux dressés conformément à l'article 5 de la présente loi font foi jusqu'à preuve du contraire et ne sont pas soumis à l'affirmation. Ils sont transmis immédiatement au procureur de la République

par l'agent verbalisateur qui en adresse en même temps copie à l'administrateur des affaires maritimes lorsqu'il s'agit de navires et à l'ingénieur en chef des ponts et chaussées ou au directeur départemental de l'équipement chargé du service maritime s'il s'agit d'engins portuaires ou de bâtiments fluviaux.

Les infractions aux dispositions de la convention mentionnée à l'article 1<sup>er</sup> et à celles de la présente loi sont jugées soit par le tribunal compétent du lieu de l'infraction, soit par celui dans le ressort duquel le bâtiment est attaché en douanes s'il est français, soit par celui dans le ressort duquel peut être trouvé le bâtiment s'il est étranger.

*Article 7.* L'administration conserve la faculté de poursuivre, selon la procédure des contraventions de grande voirie, la réparation des dommages causés au domaine public, sans qu'aucune peine puisse être prononcée par la juridiction administrative lorsque les faits incriminés sont constitutifs d'un des délits prévus aux articles 1<sup>er</sup> à 4 de la présente loi.

#### 4. GERMANY, FEDERAL REPUBLIC OF

ORDINANCE OF 17 JULY 1973 BY THE MINISTER OF TRANSPORT CONCERNING THE CONDUCT OF VESSELS WITHIN DIVIDED-TRAFFIC AREAS ON THE HIGH SEAS<sup>1</sup>

##### *Article 1*

###### *Area of application*

This Ordinance shall be applicable on the high seas outside the area of application of the Regulations governing Maritime Shipping Routes, dated 3 May 1971,<sup>2</sup> amended by the First Ordinance Amending the Regulations governing Maritime Shipping Routes, dated 7 July 1972,<sup>2</sup> with respect to all vessels that are entitled to fly the federal flag.

##### *Article 2*

###### *Divided-traffic areas*

Divided-traffic areas within the meaning of this Ordinance are the shipping routes designated by the Federal Minister of Transport, in the *Bundesanzeiger* which are separated into one-way lanes by dividing lines or dividing zones or in some other way in which travel is permitted only on the side of the dividing line or dividing zone which is the right side in the direction of travel.

##### *Article 3*

###### *Responsibility*

(1) The master of the vessel and, in the case of pushing or towing units, the master of the unit shall be responsible for ensuring that the provisions of this Ordinance are observed.

<sup>1</sup> BGBl 1973, part I, p. 975. For the entry into force see Article 8. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Supra*, Division I, Subdivision A, chapter II 4 (b).

(2) The pilot shall also bear responsibility; he must so advise the persons mentioned in paragraph (1) as to enable them to observe the provisions of this Ordinance.

#### *Article 4*

##### *Conduct within divided-traffic areas*

(1) Within divided-traffic areas, vessels must use the one-way lane which lies to the right of the dividing line or dividing zone in the direction of travel. The vessel's course must be consistent with the general direction of traffic in the lane. All vessels must keep clear of the dividing line or dividing zone as far as possible.

(2) Vessels entering or leaving a one-way lane must, in general, use the ends of the lane. If a vessel finds it necessary to enter or leave a one-way lane in a lateral direction, its deviation from the direction of the lane must be at the smallest possible angle.

(3) Vessels must avoid crossing divided-traffic areas in so far as possible. If they are nevertheless obliged to do so, the crossing must, if possible, be at right angles to the general direction of traffic in the lane.

(4) Vessels may not travel in dividing zones or cross dividing lines except for the purpose of

1. Crossing a divided-traffic area (paragraph (3), second sentence);
2. Fishing within a dividing zone;
3. Emergency action to avoid imminent danger.

(5) Vessels travelling in the entrance and exit areas (approach zones) of a divided-traffic area must manoeuvre with particular caution.

(6) Areas between the coastline and the lateral boundary of a divided-traffic area (coastal navigation zones) may not in general be used by through traffic if the appropriate one-way lane of the adjacent divided-traffic area can be used without danger.

(7) Anchoring within divided-traffic areas or their approach zones must be avoided in so far as possible.

(8) Vessels not using divided-traffic areas must keep as far away from them as possible.

(9) Vessels engaged in fishing must not impede the passage of other vessels using one-way lanes in the prescribed direction.

(10) Vessels less than 20 metres in length and sailing vessels must not impede the safe passage of power-driven vessels using one-way lanes in the prescribed direction.

#### *Article 5*

##### *Application of the rules of navigation*

The Regulations for Preventing Collisions at Sea (annex B of the International Convention for the Safety of Life at Sea—Rules of Navigation—*Bundesgesetzblatt* 1965, II, p. 742) shall not be affected.

### Article 6

#### *Disciplinary offences*

(1) A disciplinary offence within the meaning of article 15, paragraph (1), item 2, of the Act on the Functions of the Federal Government in matters of Maritime Shipping shall be deemed to have been committed by anyone who intentionally or negligently

1. As master of a vessel or master of a unit (article 3, paragraph (1))

- (a) Contrary to article 4, paragraph (1), first sentence, fails to use a one-way lane or, contrary to article 4, paragraph (1), second or third sentence, or paragraph (2), fails to use it in the prescribed manner;
- (b) Contrary to article 4, paragraph (3), crosses a divided-traffic area;
- (c) Contrary to article 4, paragraph (4), travels in a dividing zone or crosses a dividing line;
- (d) Contrary to article 4, paragraph (6), uses a coastal traffic zone;
- (e) Contrary to article 4, paragraph (7), anchors in a divided-traffic area or its approach zones;
- (f) Contrary to article 4, paragraph (8), fails to keep a clear distance from a divided-traffic area; or
- (g) Contrary to article 4, paragraph (9) or (10), impedes passage in a one-way lane; or

2. As a pilot, contrary to article 3, paragraph (2), fails to advise or incorrectly advises a person specified in article 3, paragraph (1).

(2) Competence for the prosecution and punishment of disciplinary offences under paragraph (1) shall be vested in the waterways and shipping administrations.

### Article 7

In accordance with article 14 of the Third Transference Act, dated 4 January 1952 (*Bundesgesetzblatt* I, p. 1), in conjunction with article 21 of the Act on the Functions of the Federal Government in matters of Maritime Shipping and article 111 of the Act on Disciplinary Offences, this Ordinance shall also be valid in *Land* Berlin.

### Article 8

This Ordinance shall enter into force on the first day of the second month following the date of its promulgation.

## 5. GHANA

[MINERALS (OFFSHORE) REGULATIONS 1963, AS AMENDED IN 1968  
Regulations 10, 11, 16 (2) and 19 (2)]<sup>1</sup>

<sup>1</sup> *Supra* Division I, Subdivision A, chap. IX, 4 (b).

## 6. IRELAND

### (a) OIL POLLUTION OF THE SEA ACT, 1956<sup>1</sup>

#### *Part I*

#### *Preliminary and general*

...

3. In this Act:

“barge” includes a lighter or like vessel;

“Convention of 1954” means the International Convention for the Prevention of Pollution of the Sea by Oil, 1954;<sup>2</sup>

“discharge” in relation to oil or any oily mixture means any discharge or escape howsoever caused;

“harbour authority” means:

(a) in the case of a harbour to which the Harbours Act, 1946 (No. 9 of 1946), applies, the harbour authority under that Act,

(b) in the case of a harbour under the control and management of the Commissioners of Public Works in Ireland, the Commissioners, and

(c) in any other case, the person entitled to charge rates in respect of vessels entering or using the harbour;

“harbour master” includes a person appointed by a harbour authority for the purpose of enforcing the provisions of this Act;

“inspector” means a surveyor of ships or a person appointed under section 20;

“master”, in relation to a vessel, means the person having the command or charge of the vessel for the time being;

“mile” means a nautical mile of six thousand and eighty feet;

“the Minister” means the Minister for Industry and Commerce;

“oil” means oil of any description, and includes spirit produced from oil, and coal tar;

“occupier”, in relation to anything which has no occupier, means the owner, and, in relation to a railway wagon or road vehicle, means the person in charge of it;

“petroleum spirit” means petroleum to which the Petroleum Acts, 1871 and 1879, apply;

<sup>1</sup> Act No. 25 of 17 July 1956. In accordance with Commencement Order, 1957 (S.I. No. 203 of 14 October 1957), the Act came into force on 1 November 1957 with the exception of the provisions in Section 9, subsections (1) and (2) in what they concern Parts III and IV of the Schedule of the Act. These latter provisions came into effect on 1 August 1958 in accordance with Commencement (No. 2) Order, 1958 (S.I. No. 165 of 28 July 1958).

<sup>2</sup> United Nations, *Treaty Series*, Vol. 327, p. 3, and ST/LEG/SER.B/15, pp. 787-799.

“place of land” includes anything resting on the bed or shore of the sea or inland waters and also includes anything afloat, other than a vessel, if anchored or attached to the bed or shore;

“prescribed” means prescribed by regulations made by the Minister;

“transfer” in relation to oil means transfer in bulk;

other terms have the same meanings as in the Merchant Shipping Act, 1894.

4. (1) This Act does not apply to a vessel of the Irish Naval Exemptions Service, wholly manned by personnel of the Service.

(2) The Minister may exempt any vessels or classes of vessels from any of the provisions of this Act or of regulations thereunder, either absolutely or subject to such conditions as he thinks fit.

5. Every order and regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling it is passed by either House within the next twenty-one days on which that House has sat after the instrument has been laid before it, the instrument shall be annulled accordingly but without prejudice to the validity of anything previously done under it.

6. (1) Fees under this Act shall be taken and collected in such manner as the Minister for Finance may from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

(2) The Public Offices Fees Act, 1879, shall not apply in respect of such fees.

7. The expenses incurred by the Ministry in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

8. The Oil in Navigable Waters Act, 1926 (No. 5 of 1926), is hereby repealed.

## *Part II*

### *Prevention of oil pollution of the sea*

9. (1) Subject to subsection (3), the sea areas specified in Parts I and III of the Schedule shall be prohibited zones for tankers.

(2) Subject to subsection (3), the sea areas specified in Parts II and IV of the Schedule shall be prohibited zones for ships other than tankers.

(3) The Minister may by order extend or reduce any prohibited zone or declare any specified sea area to be a prohibited zone for tankers or for other ships for the purpose of giving effect to any variation of sea areas in accordance with the Convention of 1954 or of implementing any subsequent Convention or of protecting the coasts of the State, and amend any order under this subsection.

10. (1) This section applies to crude oil, fuel oil and lubricating oil.



(2) This section shall also apply to any heavy diesel oil or other description of oil which may be prescribed.

(3) The owner and also the master of any ship registered in the State which discharges into a prohibited zone for that ship any oil to which this section applies or any mixture containing such oil, the oil in which fouls the surface of the sea, shall be guilty of an offence.<sup>1</sup>

(4) For this purpose, the oil in any oily mixture of less than one hundred parts of oil in one million parts of the mixture shall be deemed not to foul the surface of the sea.<sup>2</sup>

(5) The Minister may prescribe exceptions to subsection 3 either generally or for specified classes of ships or in relation to particular descriptions of oil or oily mixtures, or to their discharge in specified circumstances, or in relation to particular sea areas.

11. (1) If any oil or oily mixture is discharged (directly or indirectly) into the territorial seas of the State or into its inland waters navigable by sea-going vessels, then, if the discharge is:

(a) From a vessel, the owner and also the master of the vessel;

(b) From a place on land, the occupier of that place;

(c) From apparatus for transferring oil to or from a vessel, the person in charge of the apparatus,

shall be guilty of an offence.

(2) A harbour master may specify a place where the ballast water of a vessel in which a cargo of petroleum spirit has been carried may be discharged into the waters of the harbour at such times and on such conditions as he may direct. The discharge of ballast water containing no oil other than petroleum spirit in accordance with such directions shall not be an offence.

12. (1) Sections 10 and 11 shall not apply to:

(a) The discharge of oil or of an oily mixture from a vessel for the purpose of securing the safety of the vessel, preventing damage to the vessel or her cargo, or saving life, if such discharge was necessary and reasonable in the circumstances; or

(b) The escape of oil or of an oily mixture from a vessel, resulting from damage to the vessel or from any leakage, not due to any want of reasonable care, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape.

(2) Section 11 shall not apply to the escape of oil or of an oily mixture from any place or apparatus, if the escape was not due to any want of reasonable care and if all reasonable steps have been taken after the discovery of the escape for the purpose of stopping or minimizing it.

<sup>1</sup> Subsections (3) and (4) of section 10 have been replaced by a new subsection (3), as provided in Section 6 of the Oil Pollution of the Sea (Amendment) Act, 1965. *Infra (b)*.

<sup>2</sup> *Ibid.*

(3) Section 11 shall not apply to the discharge from any place of an effluent produced by operations for the refining of oil, if:

(a) It was not reasonably practicable to dispose of the effluent otherwise than by so discharging it; and

(b) All reasonably practicable steps had been taken for eliminating oil from the effluent; and

(c) In the event of the surface of the waters into which the mixture was discharged, or land adjacent to those waters, being fouled by oil at the time of the discharge, it is shown that the fouling was not caused or contributed to by oil contained in any effluent discharged at or before that time from that place.

13. (1) A harbour authority may provide, or cause to be provided, facilities for the discharge of oily residue from vessels using the harbour and arrange for its disposal.

(2) Whenever the Minister, after consultation with the harbour authority and with any organization appearing to him to be representative of owners of ships registered in the State, is of opinion that such facilities or arrangements are necessary at a particular harbour, or that the existing facilities are inadequate, he may require the harbour authority to make such provision, and within such time, as he may consider necessary and may extend the time for complying with any such requirement.

(3) A harbour authority shall not be obliged to make any facilities provided under this section available for tankers or for the discharge of oily residues for the purpose of enabling a vessel to undergo repairs or to allow the disposal of residue from which the water has not been effectively separated but, subject thereto, the facilities shall be available for all vessels using the harbour.

(4) A harbour authority, or any person by arrangement with a harbour authority, providing facilities for vessels in accordance with this section may make reasonable charges, and impose reasonable conditions, for the use of the facilities.

14. (1) If any oil or oily mixture:

(a) Is discharged from a vessel into the waters of a harbour for the purpose of securing the safety of the vessel, preventing damage to the vessel or her cargo, or saving life; or

(b) Is found to be escaping or to have escaped into such waters from a vessel as a result of damage to the vessel or leakage, or from any place on land,

the owner and the master of the vessel, or the occupier of the place, as the case may be, shall forthwith report the fact and cause of the occurrence to the harbour master.

(2) A person who fails to comply with subsection (1) shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

15. (1) No oil shall be transferred between sunset and sunrise to or from a vessel in a harbour unless notice has previously been given in accordance with this section to the harbour master.

(2) Notice shall be given not less than three and not more than ninety-six hours before the transfer of oil begins but, where transfers are frequently carried out at a particular place, a general notice to that effect, covering a period of not more than twelve months from the date of the notice shall suffice.

(3) If any oil is transferred to or from a vessel in contravention of this section the master of the vessel, and, if the transfer is from or to a place on land, also, the occupier, shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding fifty pounds.

(4) This section shall not apply to the transfer of oil by or on the direction of the harbour master or the officer in charge of a fire brigade in the event of a fire.

16. (1) The Minister may make regulations requiring ships registered in the State to be so fitted, and to comply with such requirements, as to prevent or reduce the discharge of oil or oily mixtures into the sea.

(2) A surveyor of ships and such other persons as the Minister may appoint may carry out such tests as may be prescribed for the purpose of this section and, for such tests, may charge such fees as the Minister, with the consent of the Minister for Finance, may direct.

(3) The owner and also the master of a ship, in respect of which there is a contravention of regulations under this section, shall be guilty of an offence. The offence shall be a continuing offence and fresh proceedings in respect of it may be taken from time to time.

17. (1) The master of a ship registered in the State shall keep the prescribed records of:

(a) The discharge of any oil or oily mixture from the ship for the purpose of securing the safety of the ship, preventing damage to the ship or her cargo, or saving life;

(b) The escape of any oil or oily mixture from the ship, resulting from damage to the ship or leakage;

(c) The carrying out of prescribed operations, being:

(i) The ballasting of and discharge of ballast from cargo tanks or bunker fuel tanks, and the cleaning of such tanks; or

(ii) The separation of oil in any oily mixture; or

(iii) The disposal from the ship of any oil, water or other substance arising from such operations; or

(iv) The disposal of any oily residue.

(2) The Minister may make regulations requiring the keeping of prescribed records of the transfer of oil to or from any vessel, whether registered in the State or not, while within the territorial seas or inland waters of the State. Records of transfer of oil to or from a barge shall be kept, respectively, by the person by whom the oil is supplied or to whom it is

delivered. In every other case the records shall be kept by the master of the vessel.

(3) Regulations for the purposes of this section may provide for the custody, preservation, disposal and inspection of records and for such other ancillary matters as may be prescribed.

(4) Every person who contravenes this section or regulations under it shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding two hundred and fifty pounds.

(5) Every person who makes in a record any entry or alteration which is to his knowledge false or misleading in any material respect shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding two hundred and fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

18. (1) The Government may by order apply section 16 or subsection (1) of section 17 to ships registered in other countries while they are in a harbour in the State or within the territorial seas while on their way to or from such a harbour, unless their presence there is due to stress of weather or some other unforeseen and unavoidable circumstance.

(2) The Government may by order exempt from such application a ship of any country, if satisfied that the requirements of the law of that country are equally effective and that the ship complies with them.

(3) The Government may by order revoke an order under this section.

### *Part III*

#### *Enforcement and penalties*

19. (1) The Minister, if satisfied:

(a) That the government of any country has accepted or denounced the Convention of 1954 or any subsequent Convention; or

(b) That any such Convention extends, or has ceased to extend, to any territory,

may by order so declare.

(2) In this section "ship to which the Convention applies" means a ship registered in:

(a) A country the government of which has been declared to have accepted the Convention of 1954 or any subsequent Convention and has not been subsequently declared to have denounced it; or

(b) A territory to which any such Convention has been declared to extend and to which it has not been subsequently declared to have ceased to extend.

(3) A surveyor of ships or any person empowered by warrant of the Minister may go on board any ship to which the Convention applies, while she is within a harbour in the State, may inspect the oil record book required by the Convention to be carried in the ship and may make a true copy of any

entry in the book and require the master of the ship to certify that it is a true copy.

(4) Any person who impedes a surveyor of ships or other person in the exercise of his functions under this section, or who, on being so required, fails to produce the oil record book for inspection or to certify a copy of an entry shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding fifty pounds.

(5) A person exercising functions under this section shall not unnecessarily detain or delay the vessel from proceeding on her voyage.

20. (1) A surveyor of ships shall be an inspector with the function of reporting to the Minister generally:

- (a) Whether the requirements of this Act are being complied with;
- (b) What measures have been taken for the prevention of the escape of any oil or oily mixtures;
- (c) Whether the facilities in any harbour for reception or disposal of oily residue are adequate.

(2) The Minister may appoint any person to be an inspector with the function of reporting, either generally or in a particular case, under subsection (1).

21. (1) For the purpose of his functions, an inspector may:

- (a) Go on board any vessel and inspect the vessel and her machinery, boats, equipment and articles on board the vessel and test any equipment with which under this Act she is required to be fitted, not unnecessarily detaining or delaying her from proceeding on her voyage;
- (b) Enter and inspect any premises and any apparatus for the transfer of oil;
- (c) By summons under his hand require any person to attend before him and examine him on oath (which the inspector is hereby authorized to administer);
- (d) Require a witness to make and subscribe a declaration of the truth of the statements made by him at his examination;
- (e) Require any person to produce to him any document in his power or control or make return to any inquiry;
- (f) Copy any entry in any prescribed record and require the person by whom the record is to be kept to certify the copy as a true copy of the entry.

(2) A witness before an inspector shall be entitled to the same immunities and privileges as if he were a witness before the High Court and shall be allowed such expenses as would be allowed to a witness attending that Court on subpoena; and any dispute as to the amount of those expenses shall be referred to a Taxing Master who shall, on request made to him under the hand of the inspector, ascertain and certify the amount of the expenses.

(3) If any person:

- (a) On being summoned as a witness before an inspector and tendered the expenses to which he is entitled under this section, makes default in

attending, or refuses to take an oath legally required by the inspector to be taken; or

(b) Refuses or neglects to make any answer, or to give any return or to produce any document, or to make or subscribe any declaration, or to certify a copy of any entry, which the inspector is entitled to require; or

(c) Wilfully impedes a person in the exercise of his functions under this section,

he shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding fifty pounds.

22. (1) Without prejudice to the powers conferred by section 21, a harbour master may, in the case of any vessel in the harbour:

(a) Go on board the vessel and inspect the vessel and her machinery, boats, equipment and articles on board the vessel for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or oily mixture from the vessel into the waters of the harbour;

(b) Require the production of any prescribed record;

(c) Copy any entry in any prescribed record and require the person by whom the record is to be kept to certify the copy as a true copy of the entry, but not unnecessarily detaining or delaying the vessel from proceeding on her voyage.

(2) If any person:

(a) Fails to comply with any such requirement; or

(b) Wilfully impedes a harbour master in the exercise of his functions under this section,

he shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding fifty pounds.

23. Every person who commits an offence under this Act for which no special penalty is provided shall:

(a) On summary conviction, be liable to a fine not exceeding five hundred pounds (together with, in the case of a continuing offence, a fine not exceeding fifty pounds for every day on which the offence is continued); or

(b) On conviction on indictment, be liable to a fine not exceeding five thousand pounds (together with, in the case of a continuing offence, a further fine not exceeding five hundred pounds for every day on which the offence is continued).

24. (1) Summary proceedings in respect of any offence under this Act may be brought and prosecuted by the Minister.

(2) Summary proceedings in respect of an offence in relation to a particular harbour or harbour master may be brought and prosecuted by the harbour authority.

(3) Notwithstanding subsection (4) of section 10 of the Petty Sessions (Ireland) Act, 1851, summary proceedings for the offence may be instituted:

(a) In every case, within twelve months from the date of the offence; and

(b) If at the expiry of that period the person to be charged is outside the State, within two months of the date on which he next enters the State.

(4) Without prejudice to any other jurisdiction, proceedings for an offence may be taken against a person at any place where he may be for the time being.

25. (1) A body corporate may be sent forward for trial on indictment for an offence under this Act with or without recognizances.

(2) On arraignment before the Central Criminal Court or the Circuit Court, the body corporate may enter in writing by its representative a plea of guilty or not guilty and if it does not appear by a representative appointed by it for the purpose, or, though it does so appear, fails to enter any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the body corporate had duly entered that plea.

(3) A statement in writing purporting to be signed by the secretary of the body corporate to the effect that the person named in the statement has been appointed as the representative of the body for the purpose of this section shall be admissible without further proof as evidence that that person has been so appointed.

(4) Any summons or other document required to be served for the purpose or in the course of proceedings under this section on a body corporate may be served by leaving it at or sending it by registered post to the registered office of that body or, if there be no such office in the State, by leaving it at, or sending it by registered post to, the body at any place in the State at which it conducts its business.

26. (1) Where a fine imposed on the owner or master of a vessel is not duly paid, the court may, without prejudice to any other powers for enforcing payment, direct the amount remaining unpaid to be levied by distress and sale of the vessel, her tackle, furniture and apparel.

(2) Where it appears to the court imposing a fine that any person has incurred or will incur expense in removing any pollution or making good any damage attributable to the offence, the court may order the whole or part of the fine to be paid to that person for or towards defraying the expense.

27. Every document purporting to be a record kept in pursuance of this Act or of the Convention of 1954 or any subsequent Convention or to be a true copy, certified as such by the person required to keep the record, of an entry therein shall, unless the contrary is shown, be presumed to be such and be admissible as evidence of the facts stated therein without further proof.

#### SCHEDULE. PROHIBITED ZONES

##### *Part I*

##### *Initial Zones for Tankers*

1. The whole of the sea which lies:

(a) Outside the territorial seas of the State; and

(b) Within 100 miles from the coast of Ireland, Great Britain, Belgium, the Netherlands, the Federal Republic of Germany or Denmark.

2. The whole of the sea which lies:

- (a) South of latitude  $62^{\circ}$  north; and
- (b) Within 50 miles from the coast of Norway.

3. So much of the Atlantic Ocean and of the English Channel, outside the territorial seas of the State, and outside the area specified in paragraph 1, as lies within a line drawn from a point on the Greenwich meridian 100 miles in a north-north-easterly direction from the Shetland Islands; thence northwards along the Greenwich meridian to latitude  $64^{\circ}$  north; thence westwards along the 64th parallel to longitude  $10^{\circ}$  west; thence to latitude  $60^{\circ}$  north, longitude  $14^{\circ}$  west; thence to latitude  $54^{\circ} 30'$  north, longitude  $30^{\circ}$  west; thence to latitude  $44^{\circ} 20'$  north, longitude  $30^{\circ}$  west; thence to latitude  $48^{\circ}$  north, longitude  $14^{\circ}$  west; thence eastwards along the 48th parallel to the coast of France.

#### *Part II*

##### *Initial Zone for Vessels other than Tankers*

1. The whole of the sea which lies:

- (a) Outside the territorial seas of the State; and
- (b) Within 100 miles from the coast of Ireland, Great Britain, Belgium, the Netherlands, the Federal Republic of Germany or Denmark, or within 100 miles from the coast of any of the Channel Islands.

2. The whole of the sea which lies:

- (a) South of latitude  $62^{\circ}$  north; and
- (b) Within 50 miles from the coast of Norway.

#### *Part III*

##### *Additional Zones for Tankers*

1. The whole of the sea which lies within 50 miles from land, exclusive of:

- (a) The areas specified in Part I;
- (b) The territorial seas of the State; and
- (c) The Adriatic Sea and the areas specified in paragraph 3.

2. So much of the Adriatic Sea as lies within 50 miles from the coast of Albania, and so much of the remainder of the Adriatic Sea as lies within 30 miles from any other coast (the island of Vis being disregarded).

3. The whole of the sea which lies within 150 miles from the coasts of Australia, except off the north and west coasts of the Australian mainland between the point opposite Thursday Island and the point on the west coast at  $20^{\circ}$  south latitude.

#### *Part IV*

##### *Additional Zones for Vessels other than Tankers*

1. The whole of the sea which lies within 50 miles from land, exclusive of:

- (a) The areas specified in Part II;
- (b) The territorial seas of the State; and
- (c) The Adriatic Sea.

2. So much of the Adriatic Sea as lies within 50 miles from the coast of Albania, and so much of the remainder of the Adriatic Sea as lies within 20 miles from any other coast (the island of Vis being disregarded).



*(b)* OIL POLLUTION OF THE SEA (AMENDMENT) ACT, 1965<sup>1</sup>

2. In this Act "the Principal Act" means the Oil Pollution of the Sea Act, 1956.<sup>2</sup>

3. (1) The owner and also the master of any ship registered in the State (being a ship of twenty thousand tons gross tonnage or more for which the building contract was entered into after the commencement of this section) which discharges oil or oily mixture anywhere at sea shall be guilty of an offence under the Principal Act.

(2) Subsection (1) of this section shall not apply in relation to—

(a) The discharge of oil or oily mixture from a ship outside the prohibited zones where special circumstances exist that, in the opinion of the master of the ship, make it neither reasonable nor practicable to retain the oil or oily mixture in the ship;

(b) The discharge of oil or oily mixture from a ship for the purpose of securing the safety of any ship, preventing damage to any ship or cargo, or saving life, if such discharge was necessary and reasonable in the circumstances; or

(c) The escape of oil or oily mixture from a ship, resulting from damage to the vessel or from any leakage, not due to any want of reasonable care, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape.

(3) For the purpose of giving effect to any variation of the Convention of 1954 or to any subsequent convention, the Minister may by order apply the foregoing provisions of this section to ships of such classes as may be specified in the order.

(4) Subsection (5) of section 10 of the Principal Act shall apply in relation to subsection (1) of this section.

(5) In this section—

"oil" means oil to which section 10 of the Principal Act applies;

"oily mixture" means any mixture containing not less than one hundred parts of oil to which the said section 10 applies in a million parts of the mixture.

4. The sea areas which at the commencement of this section are prohibited zones for tankers shall be prohibited zones for all ships registered in the State.

5. (1) Whenever the Minister is of opinion that facilities for the discharge and reception of oil and oily residue from ships and arrangements for their

<sup>1</sup> Act No. I of 2 March 1965. In accordance with Oil Pollution of the Sea (Amendment) Act, 1965 (Commencement) Order, 1967 (S.I. No. 122 of 16 May 1967) this Act came into force on 18 May 1967.

<sup>2</sup> *Supra* (a).

disposal are necessary at any premises occupied by an oil refinery, shipbuilding or ship repairing yard or that the existing facilities at such premises are inadequate, he may, after consultation with the owner of the refinery or yard, require the owner to make such provision and within such time as he may consider necessary and may extend the time for complying with any such requirement.

(2) If the owner of an oil refinery or shipbuilding or ship repairing yard fails to comply with the terms of a requirement under this section in relation to the refinery or yard, he shall be guilty of an offence under the Principal Act.

6. Section 10 of the Principal Act is hereby amended by the deletion of subsections (3) and (4) and the insertion of the following subsection:

“(3) The owner and also the master of any ship registered in the State which discharges into a prohibited zone for that ship any oil to which this section applies or any mixture containing not less than one hundred parts of oil to which this section applies in a million parts of the mixture shall be guilty of an offence.”

7. Sections 10 and 11 of the Principal Act shall not apply to the discharge of oil or oily mixture from a ship for the purpose of securing the safety of any other ship or preventing damage to any other ship or cargo.

8. The provisions of section 17 of the Principal Act relating to the keeping of records of the discharge of oil and oily mixture shall apply to—

(a) The discharge of oil or oily mixture from a ship outside the prohibited zones where special circumstances exist which, in the opinion of the master of the ship, make it neither reasonable nor practicable to retain the oil or oily mixture in the ship; and

(b) The discharge of oil or oily mixture from a ship for the purpose of securing the safety of any other ship or preventing damage to any other ship or cargo.

9. (1) This Act may be cited as the Oil Pollution of the Sea (Amendment) Act, 1965.

(2) The Principal Act and this Act shall be construed together as one Act.

(3) The Principal Act and this Act may be cited together as the Oil Pollution of the Sea Acts, 1956 and 1965.

(c) OIL POLLUTION OF THE SEA ACT, 1956 (APPLICATION OF SECTION 10) REGULATIONS, 1957<sup>1</sup>

...

2. Section 10 of the Oil Pollution of the Sea Act, 1956 (No. 25 of 1956), shall apply to marine diesel oil other than distillates of which more than half the volume distils at a temperature not exceeding three hundred and

<sup>1</sup> S.I. No. 204 of 14 October 1957. In force as of 1 November 1957, as provided in article 1 (2) of the S.I.

forty degrees centigrade when tested by the American Society for Testing Materials Standard Method D 153-54.

(d) OIL POLLUTION OF THE SEA ACT, 1956 (EXCEPTION  
FROM SECTION 10 (3)) REGULATIONS, 1958<sup>1</sup>

...

2. Every ship of under eighty tons gross tonnage registered in the State (not being a tanker) which uses bunker fuel tanks for the carriage of ballast water is hereby excepted from the operation of subsection (3) of section 10 of the Oil Pollution of the Sea Act, 1956<sup>2</sup>, in respect of a discharge of a mixture containing oil where the mixture consists only of oil from bunker fuel tanks and ballast water, subject to the condition that the discharge is made as far from land as is practicable and not to landward of the seaward limits of the territorial seas of the State.

(e) OIL POLLUTION OF THE SEA ACT, 1956 (EXCEPTIONS  
AND EXEMPTIONS) REGULATIONS, 1957<sup>3</sup>

...

3. Every ship registered in the State is hereby excepted from the operation of subsection (3) of section 10 of the Act<sup>4</sup> in respect of the discharge from its bilges into a prohibited zone for such ship of a mixture containing lubricating oil which has drained or leaked from machinery spaces but no other oil to which that section applies.

4. Every ship registered in the State (not being a tanker) which uses bunker fuel tanks for the carriage of ballast water and is proceeding to a port in the State or to a port within a prohibited zone for such ship, being in either case a port which has not adequate facilities to receive oil residues is hereby excepted from the operation of subsection (3) of section 10 of the Act<sup>4</sup> in respect of a discharge of a mixture containing oil where the mixture consists only of oil from bunker fuel tanks and ballast water, subject to the condition that the discharge is made as far from land as is practicable and not to landward of the seaward limits of the territorial seas of the State.

5. Every vessel of less than eighty tons gross tonnage whether registered or not and of whatever nationality is hereby exempted from the provisions of subsection (1) of section 11 of the Act in respect of the discharge from its bilges of a mixture containing lubricating oil which has drained or leaked from machinery spaces but no other oil.

<sup>1</sup> S.I. No. 244 of 1 December 1958. In force as of 15 December 1958, as provided in article 1 (2) of the S.I.

<sup>2</sup> *Supra (a)*.

<sup>3</sup> S.I. No. 205 of 14 October 1957. In force as of 1 November 1957, as provided in article I (2) of the S.I.

<sup>4</sup> *Supra (a)*.

(f) OIL POLLUTION OF THE SEA ACT, 1956 (EXCEPTIONS  
AND EXEMPTIONS) (AMENDMENT) REGULATIONS, 1967<sup>1</sup>

...  
2. Regulation 4 of the Oil Pollution of the Sea Act, 1956 (Exceptions and Exemptions) Regulations, 1957<sup>2</sup> shall not apply to a ship registered in the State of twenty thousand tons gross tonnage or more for which the building contract was entered into after the commencement of section 3 of the Oil Pollution of the Sea Act, 1965.<sup>3</sup>

(g) OIL POLLUTION OF THE SEA (RECORDS) REGULATIONS, 1957<sup>4</sup>

...  
2. In these Regulations "the Act" means the Oil Pollution of the Sea Act, 1956 (No. 25 of 1956).

3. (1) The records to be kept in pursuance of subsection (1) of section 17 of the Act by the master of a ship registered in the State (not being a tanker) of eighty tons gross tonnage or over shall—

- (i) As respects the matters specified in paragraph (a) and paragraph (b) of that subsection, be in the form set out in the First Schedule to these Regulations; and
- (ii) As respects the matters specified in paragraph (c) of that subsection, be in the form set out in the Third Schedule to these Regulations.

(2) The records to be kept in pursuance of subsection (1) of section 17 of the Act by the master of a ship registered in the State, being a tanker, shall—

- (i) As respects the matters specified in paragraph (a) and paragraph (b) of that subsection, be in the form set out in the First Schedule to these Regulations; and
- (ii) As respects the matters specified in paragraph (c) of that subsection be in the form set out in the Second Schedule to these Regulations.

4. The records prescribed by these Regulations shall be retained in the ship for the duration of the voyage and shall be surrendered to the Superintendent of the Mercantile Marine Office with the ship's log.

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<sup>1</sup> S.I. No. 126 of 16 May 1967. In force as of 18 May 1967, as provided in article 1 (2) of the S.I.

<sup>2</sup> *Supra* (e).

<sup>3</sup> *Supra* (b).

<sup>4</sup> S.I. No. 206 of 14 October 1957. In force as of 1 November 1957, as provided in article 1 (2) of the S.I.

FIRST SCHEDULE<sup>1</sup>*Accidental and other exceptional discharges or escapes of oil*

1. Date and time of occurrence .....					
2. Place or position of ship at time of occurrence ..					
3. Approximate quantity and type of oil .....					
4. Circumstances of discharge or escape and general remarks .....					
Signature of Officer or Officers in charge of the operations concerned .....					
Date of entry .....					
Signature of Master .....					
Date .....					

## SECOND SCHEDULE

<i>Date of entry</i>					
(a) Ballasting of and discharge of ballast from cargo tanks					
1. Identity number(s) of tank(s) concerned ..					
2. Type of oil previously contained in tank(s) ..					
3. Date and place of ballasting .....					
4. Date and time of discharge of ballast water ..					
5. Place or position of ship at time of discharge					
6. Approximate amount of oil-contaminated water transferred to slop tank(s) .....					
7. Identity number(s) of slop tank(s) .....					

<sup>1</sup> The three schedules reproduced here incorporate the changes made by S.I. No. 124 of 16 May 1967, Oil Pollution of the Sea (Records) (Amendment) Regulations, 1967, in force on 18 May 1967.

SECOND SCHEDULE (continued)

<i>Date of entry</i>					
<i>(b) Cleaning of cargo tanks</i>					
8. Identity number(s) of tank(s) concerned cleaned .....					
9. Type of oil previously contained in tank(s) .					
10. Identity number(s) of slop tank(s) to which washings transferred .....					
11. Dates and times of cleaning .....					
<i>(c) Settling in slop tank(s) and discharge of water</i>					
12. Identity number(s) of slop tank(s) .....					
13. Period of settling (in hours) .....					
14. Date and time of discharge of water .....					
15. Place or position of ship .....					
16. Approximate quantities of residue .....					
17. Approximate quantities of water discharged					
<i>(d) Disposal of oily residues from slop tank(s) and other sources</i>					
18. Date and method of disposal .....					
19. Place or position of ship at time of disposal .					
20. Sources and approximate quantities .....					

..... Signature of Officer or Officers in charge of the operations concerned.

..... Signature of Master.

THIRD SCHEDULE

<i>(a) Ballasting, or cleaning during voyage, of bunker fuel tanks</i>					
1. Identity number(s) of tank(s) concerned . .					
2. Type of oil previously contained in tank(s) .					
3. Date and place of ballasting .....					
Signature of Officer in charge of operations and date of entry .....					
Signature of Master and date .....					
4. Date and time of discharge of ballast or washing water .....					
5. Place or position of ship at time of disposal .					
6. Whether separator used; if so, give period of use .....					

## THIRD SCHEDULE (continued)

7.	Disposal of oily residue retained on board . . .					
	Signature of Officer in charge of operations and date of entry . . . . .					
	Signature of Master and date . . . . .					
(b)	Disposal of oily residues from bunker fuel tanks and other sources					
8.	Date and method of disposal . . . . .					
9.	Place or position of ship at time of disposal . .					
10.	Sources and approximate quantities . . . . .					
	Signature of Officer in charge of operations and date of entry . . . . .					
	Signature of Master and date . . . . .					

(h) OIL POLLUTION OF THE SEA (TRANSFER RECORDS)  
REGULATIONS, 1957<sup>1</sup>

2. These Regulations shall apply to every vessel, whether registered in the State or not, which is capable of carrying in bulk, whether for cargo or bunker purposes, more than twenty-five tons of oil or which is capable of carrying in bulk as aforesaid more than five tons of oil in any one space or container.

3. (1) Subject to paragraph (2) of this Regulation, the master of every vessel to which these Regulations apply shall keep a record of the particulars specified in Regulation 4 of these Regulations relating to the transfer of oil to or from the vessel while within the territorial seas or inland waters of the State.

(2) In the case of the transfer of oil to or from a barge, the records shall be kept, respectively, by the person by whom the oil is supplied, or to whom it is delivered.

4. (1) The records required to be kept by Regulation 3 of these Regulations shall show clearly the following particulars:

- (a) The name and port of registry (if any) of the vessel or barge;
- (b) The date and time of transfer;
- (c) The place of transfer;
- (d) The amount and description of oil transferred;
- (e) From what vessel, barge or place on land, and to what vessel, barge or place, the oil was transferred.

(2) The record of each operation shall be separately signed and dated by the person required by Regulation 3 of these Regulations to keep such record.

<sup>1</sup> S.I. No. 207 of 14 October 1957. In force as of 1 November 1957, as provided in article 1 (2) of the S.I.

(i) OIL POLLUTION OF THE SEA (SHIPS' EQUIPMENT)  
REGULATIONS, 1957<sup>1</sup>

...

2. These Regulations shall apply to every ship registered in the State which uses oil as fuel for either engines or boilers.

3. Every ship to which these Regulations apply shall be fitted so as effectively to prevent oil fuel from leaking or draining from machinery spaces into bilges unless the contents of the bilges are subjected to an effective means of separating the oil therefrom before they are pumped into the sea.

(j) OIL POLLUTION OF THE SEA ACT, 1956 (EXTENSION  
OF PROHIBITED ZONES) ORDER, 1961<sup>2</sup>

...

3. The prohibited zones for tankers and ships other than tankers for the purposes of the Oil Pollution of the Sea Act, 1956<sup>3</sup> are hereby extended so as to include so much of the Atlantic Ocean as lies within 100 miles from the coast of Canada.

(k) [CONTINENTAL SHELF ACT, 1968]<sup>4</sup>

## 7. MONACO

LOI No 937 DU 16 JUILLET 1973 CONCERNANT LA REPRESSION DES ACTES DE  
POLLUTION DES EAUX DE LA MER PAR DES HYDROCARBURES PRO-  
VENANT DE NAVIRES<sup>5</sup>

*Article premier.* Sera passible d'un emprisonnement de six mois à trois ans et de l'amende prévue au chiffre 4 de l'article 26 du Code pénal, le capitaine d'un navire battant pavillon monégasque et relevant du champ d'application de la Convention internationale de Londres du 12 mai 1954, amendée<sup>6</sup>, sur la prévention de la pollution des eaux de mer par les hydrocarbures, qui en violation des interdictions visées à l'article 3 de la Convention et sous réserve des exceptions prévues aux articles 4 et 5 de cette dernière aura procédé, fait ou laissé procéder au rejet à la mer d'hydrocarbures ou de mélanges d'hydrocarbures dans les zones déterminées par la Convention.

Le capitaine pourra, en outre, être frappé de l'interdiction de commander un navire pendant une durée qui n'excédera pas cinq années.

<sup>1</sup> S.I. No. 208 of 14 October 1957. In force as of 1 March 1958, as provided in article 1 (2) of the S.I.

<sup>2</sup> S.I. No. 104 of 25 May 1961. In force as of 15 June 1961 as provided in article 2 of the S.I. Order made pursuant to annex A of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954 (United Nations, Treaty Series, vol. 327, p. 3 and ST/LEG/SER.B/15, p. 787).

<sup>3</sup> *Supra* (a), Schedule.

<sup>4</sup> *Supra* Division II, 10 (a).

<sup>5</sup> *Journal de Monaco*, No 6043 du 20 juillet 1973, p. 490 et 491.

<sup>6</sup> Nations Unies, *Recueil des Traités*, vol. 327, p. 3, et ST/LEG/SER.B/15; p. 787.



S'il s'agit d'un navire de plaisance et à défaut de capitaine mentionné en titre sur le rôle d'équipage ou sur le congé, les peines prévues au premier alinéa seront applicables à la personne qui avait, en fait, la responsabilité du navire au moment de l'infraction.

Indépendamment des peines encourues en application des trois alinéas ci-dessus, le propriétaire ou l'exploitant du navire qui aura donné l'ordre de procéder au rejet sera puni d'un emprisonnement de un an à cinq ans et du maximum de l'amende prévue au chiffre 4 de l'article 26 du Code pénal.

Dans tous les cas, lorsqu'il y aura récidive, outre l'application de l'article 40 du Code pénal, le maximum de l'amende prévue au chiffre 4 de l'article 26, lequel pourra être porté au triple, sera prononcé et l'interdiction de commander un navire pourra être ordonnée à titre définitif.

*Article 2.* Lorsque les infractions visées à l'article premier auront été commises à partir d'un navire battant pavillon monégasque et ne relevant pas, en raison de son tonnage réduit, du champ d'application de la Convention internationale de Londres, les dispositions de cet article sont néanmoins applicables si le navire transporte ou utilise pour sa propulsion des hydrocarbures ou mélanges d'hydrocarbures.

Toutefois, lorsque la puissance de l'appareil propulsif d'un navire autre qu'un navire-citerne est inférieure à un chiffre fixé par ordonnance souveraine, les peines portées à l'article premier sont réduites comme suit :

- Le capitaine est passible d'un emprisonnement de six jours à un mois et de l'amende prévue au chiffre 2 de l'article 26 du Code pénal, ou de l'une de ces deux peines seulement,
- Le propriétaire ou l'exploitant est passible d'un emprisonnement de six mois à trois ans et de l'amende prévue au chiffre 3 de l'article 26 du Code pénal.

En cas de récidive, outre l'application de l'article 40 dudit Code, le maximum de l'amende prévue au chiffre 3 de l'article 26 sera prononcé.

*Article 3.* Lorsqu'il y aura eu rejet d'hydrocarbures, ou de mélanges d'hydrocarbures dans les eaux intérieures ou dans la mer territoriale de Monaco, les peines prévues aux deux articles précédents seront prononcées, quel que soit le pavillon du navire, même si ce dernier est immatriculé dans un Etat non partie à la Convention internationale de Londres.

*Article 4.* Le capitaine d'un navire auquel s'applique l'article premier doit tenir le registre des hydrocarbures institué par l'article 9 de la Convention internationale de Londres; à défaut ou si le registre comporte des mentions sciemment inexactes, le capitaine est passible d'un emprisonnement de six jours à un mois et de l'amende prévue au chiffre 2 de l'article 26 du Code pénal ou de l'une de ces deux peines seulement.

Il encourt les mêmes peines s'il refuse de présenter le registre à toute requête des autorités compétentes ou s'il tente de s'opposer à ce qu'elles en prennent connaissance.

*Article 5.* Le capitaine d'un navire auquel s'applique l'article 2 doit tenir un registre des hydrocarbures dans les conditions fixées par une ordonnance

souveraine; à défaut ou si le registre comporte des mentions sciemment inexacts, le capitaine est passible des peines portées à l'article précédent.

Il encourt les mêmes peines s'il refuse de présenter le registre à toute requête des autorités compétentes ou s'il tente de s'opposer à ce qu'elles en prennent connaissance.

Toutefois, les dispositions ci-dessus ne sont pas applicables aux navires autres que les navires-citernes dont la jauge brute est inférieure à 150 tonneaux.

*Article 6.* Il peut être interdit à tout navire dont le capitaine aura commis l'une des infractions prévues par la présente loi :

- Soit de naviguer pendant une durée de quinze jours à six mois, lorsque le navire bat pavillon monégasque;
- Soit d'user des ports de la Principauté pendant une durée de un mois à deux ans, lorsque le navire bat un pavillon autre que monégasque. S'il y a nouvelle infraction, même commise sous le commandement d'un autre capitaine, l'interdiction définitive peut être prononcée.

*Article 7.* Les infractions aux dispositions des articles 3 et 9 de la Convention internationale de Londres, à celles de la présente loi et aux mesures qui seront prises pour leur application seront constatées par les fonctionnaires des services de la marine, de la police maritime et des travaux publics concurremment avec les officiers de police judiciaire.

## 8. MOROCCO

[DAHIR PORTANT LOI No 1.73.211 DU 2 MARS 1973 FIXANT LA LIMITE DES EAUX TERRITORIALES ET DE LA ZONE DE PECHE EXCLUSIVE MAROCAINES, article 6]<sup>1</sup>

## 9. NORWAY

ACT NO. 46 OF 16 JUNE 1972 CONCERNING MEASURES TO BE ADOPTED IN PURSUANCE OF THE INTERNATIONAL CONVENTION OF 29 NOVEMBER 1969 RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF OIL POLLUTION CASUALTIES<sup>2</sup>

### *Section 1*

The King may decide on the implementation of measures to be taken in pursuance of the International Convention adopted in Brussels on 29 November 1969 relating to Intervention on the High Seas in cases of Oil Pollution Casualties,<sup>3</sup> and may issue further administrative regulations in respect of such measures.

<sup>1</sup> *Supra* Division L, Subdivision A, chap. I, 14.

<sup>2</sup> English text provided by the Permanent Representative of Norway to the United Nations in a note verbale of 21 January 1974.

<sup>3</sup> Reproduced in ST/LEG/SER.B/16, pp. 439-447.

*Section 2*

This Act does not in any way restrict the right, pursuant to the law otherwise in force, to implement measures in Norwegian territorial waters to prevent or limit damage arising from oil pollution.

*Section 3*

This Act enters into force at such time as the King may decide.

**10. OMAN**

[MARINE POLLUTION CONTROL LAW]<sup>1</sup>

**11. SINGAPORE**

PREVENTION OF POLLUTION OF THE SEA ACT, 1971,<sup>2</sup> AS AMENDED  
BY SECTION 17 OF THE CIVIL LIABILITY (OIL POLLUTION) ACT, 1973<sup>3</sup>

...

*PART II. CRIMINAL LIABILITY FOR POLLUTING THE SEA*

*3. Discharge of oil into the sea*

(1) If any oil or mixture containing oil is discharged from a Singapore ship into any part of the sea outside the territorial limits of Singapore, the owner, the agent or the master of such ship shall, subject to the provisions of this Act, be guilty of an offence under this Act and shall be liable on conviction to a fine of not less than five hundred dollars and not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

...

*4. Discharge of oil into Singapore waters*

If any oil or mixture containing oil is discharged into Singapore waters from any vessel, or from any place on land, or from any apparatus used for transferring oil from or to any vessel (whether to or from a place on land or to or from another vessel):

(a) If the discharge is from a vessel, the owner, the master or the agent of the vessel; or

(b) If the discharge is from a place on land, the occupier of that place or if the discharge is caused by the act of another person who is in that place without the permission (express or implied) of the occupier, that person; or

<sup>1</sup> *Supra* Division I, Subdivision A, Chapter VII, 11.

<sup>2</sup> Reproduced in ST/LEG/SER.B/16, p. 224. Only the amended provisions are reproduced here.

<sup>3</sup> *Supra* Division I, Subdivision A, Chapter VII, 12.

(c) If the discharge is from apparatus used for transferring oil from or to a vessel, the person in charge of the apparatus shall be guilty of an offence under this Act and shall be liable on conviction to a fine of not less than five hundred dollars and not more than five hundred thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

#### *PART IV. MISCELLANEOUS PROVISIONS*

##### *13. Recovery of costs for removing refuse*

(1) If any refuse, garbage, waste matter, substance of a dangerous or obnoxious nature or trade effluent is discharged or escapes from a vessel, the owner of the vessel shall be liable for the costs of any measure reasonably taken after the discharge or escape for the purpose of removing the same and for preventing or reducing any damage caused in Singapore by contamination resulting from the discharge or escape.

(2) Where the refuse, garbage, waste matter, substance of a dangerous or other obnoxious nature or trade effluent is discharged or escapes from two or more ships—

(a) The liability is incurred under this section by the owner of each of them; but

(b) The damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable;

each of the owners shall be liable, jointly and severally with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

##### *14. Recovery of costs from operator or apparatus [Repealed]*

##### *15. Recovery of costs from occupier of land [Repealed]*

##### *17. Power to detain vessels*

Notwithstanding any proceedings which may be instituted under section 4 or 6 of this Act, the Director or the Port Master may detain any vessel if the Director or the Port Master has reasonable cause to believe that any refuse, garbage, waste matter, substance of a dangerous or obnoxious nature or trade effluent has been discharged or has escaped from the vessel and that the owner of the vessel has incurred a liability under section 13 of this Act, and the vessel may be so detained until the owner of the vessel deposits with the Government or the Authority a sum of money or furnishes such security which would, in the opinion of the Director or the Port Master, be adequate to meet the owner's liability incurred under section 13 of this Act.

## 12. SWEDEN

(a) ACT NO. 1154 OF 17 DECEMBER 1971 TO PROHIBIT THE DISCHARGE (DUMPING) OF WASTE MATTER INTO WATER,<sup>1</sup> AS AMENDED IN 1972<sup>2</sup>

*Article 1.* Waste matter, whether solid, liquid or gaseous, may not be discharged (dumped) in the territorial sea of Sweden from a vessel, aircraft or other means of transport. Nor may such discharge be effected by a Swedish vessel or aircraft in the open sea. Waste matter intended to be discharged in the open sea may not be taken out of the country.

*Article 2.* This Act shall not apply to the discharge (dumping) of oil or oily mixtures as referred to in the Act (1972:275) concerning Measures to Prevent the Pollution of Water by Vessels<sup>3</sup> nor to waste matter produced through the operation of a vessel.

*Article 3.* The King, or such authority as the King may appoint, may permit derogations from article 1 if discharge (dumping) can be effected without adverse effects with respect to the protection of the environment. Conditions may be attached to such permission.

Should discharge (dumping) cause adverse effects which were not foreseen when the permission was granted, the authority which granted the permission may make regulations to remedy the adverse effects.

If conditions or regulations are disregarded, or if the adverse effects referred to in the second subparagraph cannot be remedied, the permission granted may be revoked.

*Article 4.* Supervision of the observance of this Act and of conditions laid down and regulations made under it shall be performed by such authority as the King may appoint.

The supervisory authority shall be entitled to receive, on demand, such information and such documents as may be required for the purpose of supervision.

For the purposes of supervision the authority shall have access to means of transport, premises or areas which are used in connexion with discharge (dumping) as aforesaid and shall be entitled to make investigations there.

*Article 5.* A fine or a sentence of not more than one year's imprisonment shall be imposed on any person who wilfully or through negligence

1. Acts in breach of article 1; or
2. Disregards conditions laid down or regulations made under article 3.

A person attempting to commit an act which is an offence under article 1 shall be answerable therefor under chapter 23 of the Criminal Code.

<sup>1</sup> *Swedish Code of Statutes*, 28 December 1971. Came into force on 1 January 1972.

<sup>2</sup> Amendment by the Act of 2 June 1972 to Amend the Act (1971:1154) to Prohibit the Discharge (Dumping) of Waste Matter into Water. The amending Act came into force on 15 June 1972. Swedish texts of the original Act and the amending Act provided by the Permanent Representative of Sweden to the United Nations in a note verbale of 13 March 1973. Translation by the Secretariat of the United Nations.

<sup>3</sup> *Infra (b)*.

*Article 6.* A fine shall be imposed on any person who wilfully or through negligence

1. Fails to perform a duty incumbent upon him under article 4, second paragraph; or
2. Furnishes false information in cases as referred to in article 4, second paragraph, unless the act is punishable under the Criminal Code.

...

*Article 8.* The yield of an offence as referred to in article 5 shall be declared forfeit unless such declaration would be manifestly inequitable.

Property which has been used as a means of committing an offence as referred to in article 5 may be declared forfeit if so required for the purpose of preventing an offence or if special grounds therefor otherwise exist. The value of the property may be declared forfeit in place of the property itself.

...

(b) ACT NO. 275 OF 2 JUNE 1972 CONCERNING MEASURES TO PREVENT THE POLLUTION OF WATER BY VESSELS<sup>1</sup> AS AMENDED ON 17 DECEMBER 1973<sup>2</sup>

*Prohibition of pollution by vessels*

*Article 1.* Oil may not be discharged from a vessel in the territorial sea of Sweden. The outflow of oil from a vessel in the area of the territorial sea shall be prevented so far as is possible.

In the open sea what is stated in the first paragraph shall apply to tank vessels of a gross tonnage of not less than 150 register tons and to other vessels of a gross tonnage of not less than 500 register tons.

The King may ordain that the second paragraph shall likewise apply to vessels of a lesser gross tonnage than is specified in that paragraph.<sup>3</sup>

*Article 2.* Notwithstanding article 1, second paragraph, the following may be discharged in the open sea:

1. An oily mixture from a vessel other than a tank vessel, on condition that
  - The vessel is under way; that
  - The mixture is never discharged at a rate greater than that corresponding to 60 litres of oil per nautical mile travelled by the vessel; that

<sup>1</sup> SFS 1972: 275, *Swedish Code of Statutes*, 15 June 1972. Came into force on 1 July 1972 and superseded Act No. 86 of 6 April 1956, reproduced in part in ST/LEG/SER.B/15, pp. 287-288. Swedish text provided by the Permanent Representative of Sweden to the United Nations in a note verbale of 13 March 1973. Translation by the Secretariat of the United Nations.

<sup>2</sup> Amendment by SFS 1973: 1201, *Swedish Code of Statutes*, 11 January 1974. Swedish text provided by the Permanent Representative of Sweden to the United Nations in a note verbale of 4 February 1974. Translation by the Secretariat of the United Nations.

<sup>3</sup> Royal Order No. 278 of 2 June 1972, *infra (e)*, paragraph 2.

The oil constitutes less than one ten-thousandth part of the mixture; and that

Discharge is effected as far from the nearest land as the circumstances allow.

2. Bilge water containing oil which has run out or leaked from a space occupied by the propelling machinery of a tank vessel, if the water is discharged in conformity with the requirements specified under paragraph 1;
3. Oil from a tank vessel other than oil as referred to under paragraph 2, on condition that

The vessel is under way; that

The oil is never discharged at a rate greater than that corresponding to 60 litres of oil per nautical mile travelled by the vessel; that

The aggregate quantity of oil that is discharged during a voyage in ballast does not exceed one fifteen-thousandth part of the vessel's load capacity; and that

The vessel is not less than 50 nautical miles from the nearest land.

The distance from the nearest land shall be computed from the baseline from which the territorial sea is measured, save as the King may prescribe otherwise.

*Article 3.* The term "oil" as used in this Act means crude oil, lubricating oil, diesel oil and other fuel oil in accordance with provisions to be enacted by the King.

The term "oily mixture" means any mixture that contains oil.

*Article 4.* In the matter of waste matter, other than oil, produced through the operation of a vessel, the King or such authority as the King may appoint may make regulations for the purpose of preventing pollution of the water.

#### *Equipment of vessels, etc.*

*Article 5.* The King or such authority as the King may appoint may make regulations concerning the construction and equipment of vessels for the purpose of preventing or limiting the pollution of water and concerning certificate showing that such regulations are complied with.

*Article 6.* The King may prescribe that a Swedish vessel may not be used for marine navigation if it is not constructed or not equipped in conformity with regulations as referred to in article 5 or if it lacks a certificate as referred to in that article.

The King or such authority as the King may appoint may prescribe that a vessel lacking a certificate as prescribed in article 5 or an equivalent document made out by a competent foreign authority may not enter or be in a part of Sweden's territorial sea or a loading or unloading point at sea which is under Swedish control.

*Article 7.* The King or such authority as the King may appoint may either prescribe that a Swedish vessel may not carry water in a fuel tank or may prescribe conditions governing such carriage.

*Oil log*

*Article 8.* On a Swedish tank vessel and on any other Swedish vessel of a gross tonnage of not less than 500 register tons using oil as its propellant fuel the master shall keep or supervise the keeping of an oil log complying with regulations to be made by the King or by such authority as the King may appoint. The King may ordain that an oil log shall likewise be kept on other Swedish vessels.

The oil log shall be kept readily accessible for inspection and shall be preserved for not less than three years after the date of the last entry.

*Dumping stations*

*Article 9.* In such public harbour as the King may designate there shall be an installation or arrangement for receiving oil residue and oily mixtures from vessels.

The King or such authority as the King may appoint shall make regulations concerning an installation or arrangement as referred to in the first paragraph.

*Article 10.* If the owner of a harbour fails to install or operate an installation or arrangement as referred to in article 9, the King or such authority as the King may appoint may install or operate the installation or arrangement at the owner's expense.

*Special measures against pollution*

*Article 11.* If oil or some other harmful substance comes out of a vessel or if there are reasonable grounds for fearing that this will happen, the National Administration of Shipping and Navigation (*Sjöfartsverket*) and such other authority as the King may appoint may notify the prohibitions and orders required for preventing or limiting the discharge. Such a decision may relate to:

1. A prohibition on the vessel's departure or continued voyage;
2. A prohibition on the use of particular equipment;
3. A requirement that the vessel shall follow a prescribed route;
4. A requirement that the vessel shall put in at or depart from a particular harbour or other place;
5. A requirement concerning the vessel's movement or operation;
6. A requirement that oil or some other harmful substance shall be lightered;
7. A requirement that loading, unloading, lightering or bunkering shall be discontinued; or
8. A requirement concerning some other measure to prevent or limit the discharge of oil or other harmful substances.

If a person fails to take within the time prescribed action incumbent upon him under a decision as referred to in the first paragraph, or if he cannot be notified of the decision without such delay as would jeopardize achievement of the purpose of the decision, the authority may cause the action to be



taken at the cost of the vessel's owner or operator. The same shall likewise apply where, a decision having been notified in conformity with the first paragraph hereof, immediate action is required but cannot be expected to be taken by the party referred to in the decision.

The King or such authority as the King may appoint shall make regulations concerning what is to be regarded as harmful within the meaning of the first paragraph.

*Article 12.* A decision as referred to in article 11, first paragraph, shall contain particulars of the action required to be taken and of the time within which the action is required to have been taken. The decision shall be communicated to the master and the operator forthwith and if the decision relates to a foreign vessel, to the embassy or consulate of the foreign vessel's home country.

*Article 12 a.* Where those provisions of the Act (1973: 1198) concerning liability for oil damage at sea<sup>1</sup> which relate to an insurance obligation or an obligation to give security are not complied with in respect of a particular vessel, such authority as may be appointed by the King may prohibit the vessel from putting in at or departing from a particular harbour or off-shore terminal or, in the case of a Swedish vessel, may prohibit the vessel from continuing its voyage. The provisions of article 12, second sentence, shall apply to such prohibition.

*Article 13.* An authority which pursuant to article 11, first paragraph, or article 12 a has notified a prohibition on a vessel's departure or continued voyage shall, if the vessel is in the territorial sea of Sweden, report the decision forthwith to the police, customs and pilotage authorities. It shall be the duty of the said authorities to take such action as may be required to prevent the vessel's departure or continued voyage.

Where the prohibition applies to a Swedish vessel which is in the territorial sea of a foreign country, it shall be duty of the master to deliver the vessel's document of nationality to the Swedish consul at that consul's request.

*Article 14.* If a decision as referred to in article 11, first paragraph, has been notified in the National Administration of Shipping and Navigation by a person other than the head of the section responsible for matters relating to safety on vessels (the Director, Safety at Sea Section) or has been notified by another authority, it shall be submitted to the Director, Safety at Sea Section, forthwith.

#### *Supervision*

*Article 15.* In order to determine the origin of polluting oil, the police authority or the authority that is empowered to notify a decision under article 11, first paragraph, may take samples of oil on a vessel and for that purpose interrupt the vessel's voyage, unless material inconvenience would be caused by so doing.

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<sup>1</sup> *Infra (c).*

*Article 16.* Supervision of the observance of the provisions of articles 5 and 7 concerning the construction and equipment of the vessel shall be performed in conformity with the Safety on Vessel Act (1965: 719)<sup>1</sup> in the matter of a vessel which is subject to regular supervision under that Act.

*Article 17.* The policy authority, the supervisory authority under the Safety on Vessels Act (1965: 719), the Customs authority and such authority as the King may appoint may inspect the oil log of a Swedish vessel. In the case of a foreign vessel that is in the territorial sea of Sweden the same shall apply in the matter of the oil log or of equivalent records thereto.

In the territorial sea of a foreign country the master of a Swedish vessel shall be under a duty to allow the proper foreign authority to inspect the oil log.

*Article 18.* In other respects supervision of the observance of this Act and of regulations made pursuant to the Act shall be the duty of such authority as the King may appoint.

*Article 19.* No proceedings may be instituted against a decision which, as provided in article 14, must be submitted to the Director, Safety at Sea Section. Proceedings against a decision notified by the Shipping and Navigation Administration through the Director, Safety at Sea Section, in a matter as referred to in article 11, first paragraph, or against a decision in a matter as referred to in article 12 *a*, shall be instituted in the Revenue Court (*kammarrätt*) by way of an appeal.

Proceedings against any other decision under this Act which was made by an authority other than a central administrative authority shall be instituted before the Shipping and Navigation Administration by way of an appeal.

Proceedings against a decision under this Act made by the Shipping and Navigation Administration or by some other authority, being a central administrative authority, in a matter other than as referred to in article 11, first paragraph, or in article 12 *a* shall be instituted before the King by way of an appeal.

*Article 20.* A decision under this Act shall be complied with forthwith unless otherwise provided in the decision. In the case of a decision which must be submitted to the Director, Safety at Sea Section, the Director may order that the decision shall remain in abeyance until further notice.

*Provisions concerning liability etc.*

*Article 21.* A fine or a sentence of not more than one year's imprisonment shall be imposed on any person who wilfully or through negligence acts in breach of

1. Article 1, unless the act is punishable under the Criminal Code;
2. A regulation as referred to in article 4; or
3. A prohibition or requirement as referred to in article 11, first paragraph, or a prohibition as referred to in article 12 *o*.

<sup>1</sup> Reproduced in part in ST/LEG/SER.B/15, pp. 182-185.

*Article 22.* Where the master or the officer to whom the master has assigned responsibility for supervision over the manipulation of oil or waste matter on board has failed in the supervision required to prevent the oil or waste matter from coming out of the vessel, in breach of this Act or of a regulation made under the Act, he shall be fined or be sentenced to not more than one year's imprisonment.

*Article 23.* A master who fails to keep an oil log in conformity with article 8 or who makes an incorrect entry in such a log shall be fined or be sentenced to not more than six months' imprisonment.

A master who acts in breach of a regulation made pursuant to article 6 or article 7 shall be fined.

*Article 24.* If oil or waste matter is discharged in breach of this Act or of a regulation made pursuant to the Act; or

If a prohibition as referred to in article 6 or article 7 is infringed; or

If a prohibition under article 11, first paragraph, is infringed or a requirement under that paragraph is disregarded, or a prohibition under article 12 *a* is infringed;

Then the operator or the owner of the vessel shall be judged as though he himself had performed the act if he had or should have had knowledge of the act.

*Article 25.* Cases concerning liability for offences as referred to in this Act may be heard by a district court (*tingsrätt*) that is the court having jurisdiction in accordance with chapter 19 of the Code of Judicial Procedure or articles 336 and 338 of the Maritime Act (1891: 35).<sup>1</sup>

#### *Other provisions*

*Article 26.* This Act shall apply to State-owned vessels not used in commercial service only to the extent prescribed by the King.

#### (c) ACT NO. 1198 OF 17 DECEMBER 1973 CONCERNING LIABILITY FOR OIL DAMAGE AT SEA<sup>2</sup>

#### *Introductory provisions*

*Article 1.* For the purposes of this Act:

"Oil damage" means, on the one hand, damage caused outside the ship by contamination resulting from oil from the ship and, on the other hand, the costs of preventive measures and damage caused by such measures;

"Incident" means any occurrence, or series of occurrences having the same origin, which causes oil damage;

<sup>1</sup> Partially reproduced in ST/LEG/SER.B/5 and Add.1, pp. 162-163. For the texts of articles 336 and 338 of the Maritime Act (1891: 35), see René Rodière, *Lois Maritimes Nordiques*, Institut de Droit comparé de Paris, 1972, at pages 314 and 318.

<sup>2</sup> SFS 1973: 1198, *Swedish Code of Statutes*, 11 January 1974. Swedish text provided by the Permanent Representative of Sweden to the United Nations in a note verbale of 4 February 1974. Translation by the Secretariat of the United Nations.

“Preventive measures” means any reasonable measures taken after an incident has occurred to prevent or minimize oil pollution damage;

“Ship’s owner” means the person registered as the owner of the ship or, in the absence of registration, the person owning the ship; however, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship’s operator, “owner” shall mean such company;

“Franc” means a unit of value consisting of 65½ milligrams of gold of millesimal fineness nine hundred;

“Ship’s tonnage” means the net tonnage of the ship with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage, or, in the case of a ship which cannot be measured in accordance with the normal rules of tonnage measurement, 40 per cent of the weight in tons of oil which the ship is capable of carrying;

“Liability Convention” means the Convention on Civil Liability for Oil Pollution Damage, adopted at Brussels on 29 November 1969;<sup>1</sup>

“Convention State” means a State which has acceded to the Liability Convention.

For the purposes of this Act, “ship” includes any seaborne craft of any type whatsoever.

*Article 2.* This Act shall apply to oil damage caused in Sweden or in another Convention State by a ship carrying oil in bulk as cargo (bulk cargo) and to the costs of preventive measures taken to prevent or minimize such damage in Sweden or another Convention State.

The applicability of the Act to warships and certain other ships owned by a State and to ships not carrying oil in bulk as cargo shall be governed by the provisions of article 22.

Compensation for measures in respect of oil damage shall be made in accordance with this Act even where an obligation to take the measures existed by virtue of a law or other legislative instrument.

This Act shall apply irrespective of any other provisions in force regarding the applicable law.

The provisions of this Act shall not apply in so far as their application would be incompatible with Sweden’s obligations under international agreements.

#### *Damages*

*Article 3.* Compensation for oil damage shall be made by the ship’s owner even though neither the owner nor any person for whom he is responsible was the author of the damage. Where an incident consists of a series of occurrences, liability shall attach to the person who was the ship’s owner on the date of the first such occurrence.

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<sup>1</sup> ST/LEG/SER.B/16, pp. 447-454.

No liability shall, however, attach to the owner if he proves that the damage:

1. Resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
2. Was wholly caused by an act done with intent to cause damage by a third party; or
3. Was wholly caused by the negligence or other wrongful act of any Swedish or foreign authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

In the event of the person who suffered the damage being also at fault or in the event of two or more ship's owners being jointly and severally liable, the provisions of chapter 5, articles 5 and 6, of the Damages Act (1972: 207) shall apply.

*Article 4.* No claim for compensation for oil damage under the compensation provisions of this Act shall be made against a ship's owner otherwise than in accordance with the Act.

A claim as referred to in the first paragraph may not be made against the operator of a ship who is not the owner thereof, nor against a charterer or any other person operating the ship in the place of the operator, nor against a shipper, consignee, cargo owner, pilot or any other person who, without being a member of the crew, performs work in the service of the ship. Where damage has occurred in connexion with the salvage of a ship or the cargo or in connexion with preventive measures, the foregoing provision shall apply also to the salvager or to the person carrying out the said measures unless the salvage operations or the preventive measures were undertaken contrary to the prohibition of a government authority or—if undertaken otherwise than by a government authority—despite the express and justified prohibition of the ship's owner or the cargo owner.

A claim as referred to in the first paragraph may likewise not be made against a person who is an employee of the ship's owner or of a person referred to in the second paragraph.

No claim for the recovery of amounts paid in compensation for oil damage under this Act may be brought against a pilot, a salvager or a person who has undertaken preventive measures, or against an employee as referred to in the third paragraph, except where the person against whom the claim is made caused the damage either wilfully or through gross negligence or where the claim is made against a salvager or a person who took preventive measures and such salvager or person violated a prohibition as referred to in the second paragraph, second sentence.

*Article 5.* A ship's owner shall be entitled to limit his liability under this Act in respect of any one incident to an amount of 2,000 francs for each ton of the ship's tonnage. However, such liability shall not in any event exceed 210 million francs. Such limitation shall not be allowed in the case of interest or compensation for court costs.

Where a demand is made for compliance with Sweden's obligations in relation to a State which has acceded to the Convention relating to the

Limitation of the Liability of Owners of Seagoing Ships, adopted at Brussels on 10 October 1957, the right of the owner to limit his liability shall be governed by the provisions of chapter 10 of the Maritime Act (1891:35, p. 1). The amount of liability shall be determined in accordance with article 235 of the Maritime Act.

If the incident occurred as a result of the actual fault or negligence of the ship's owner, he shall not be entitled to avail himself of the limitation of liability unless he committed such fault or was guilty of such negligence while acting as master or crew member of the ship.

*Article 6.* For the purpose of availing himself of the benefit of limitation provided for in article 5, first paragraph, the owner, his insurer or some other person acting on the owner's behalf shall, in accordance with this Act or with the applicable law of another Convention State, constitute a fund for the total sum representing the limit of his liability. The sum shall be converted into kronor at the official rate of exchange in effect on the date on which the fund is constituted.

The fund, in the case of Sweden, shall be constituted with the court in which action is brought under article 18. The fund can be constituted either by depositing the sum or by giving security that is acceptable to the court.

Where any person wishes to constitute a fund, the court, at the request of such person, shall render a decision as soon as possible on the size of the sum representing the limit of liability. The decision shall remain in effect until countermanded. Upon the expiry of the time-limit specified in article 7, first paragraph, the court shall make a final determination regarding the size of the sum.

An action against a decision on the sum representing the limit of liability or concerning the question of the acceptability of the security shall be brought separately.

Regulations concerning the constitution of a fund and the administration and distribution of the fund shall be made by the King.

*Article 7.* If a fund is constituted in Sweden, the court with which the fund is constituted shall, by notification, urge the claimants to present their claims in writing within a specified period which shall not be less than six months and to request that a specified amount be set aside for their account. The notification shall be inserted in the Official Gazette and in one or more newspapers in the part of the country where oil damage resulting from the incident in question occurred. If oil damage occurred in another Convention State, the notification shall also be inserted in the official gazette of such State. All known claimants shall be separately notified by letter.

A claimant who fails to present his claim within the period specified in the notification may not make a claim against the fund unless he either did not have, or could not be expected to have had, knowledge of the notification. Notwithstanding the foregoing provision, a claim as aforesaid may be made if the damage on the basis of which the claim is made occurred after the expiry of the time-limit or within such a short time before the expiry thereof that the claimant's failure to present his claim within the prescribed period cannot be construed as negligence on his part. The court

may decide that a specified amount shall be set aside to cover such claims which have not been presented before the expiry of the time-limit but which can nevertheless be made against the fund. This amount shall be distributed when all such claims have been decided or when, as provided in article 10, no further actions for compensation may be brought.

Where the amount of established claims exceeds the aggregate amount of compensation payable under article 5, first paragraph, the amount of all such claims shall be reduced in the same proportion.

If a fund is constituted in Sweden and there is reason to believe that the amount of established claims will exceed the aggregate amount of compensation pertaining to the ship, the court may order that, provisionally, only a specified proportion of the amount of compensation shall be paid.

The fund shall be distributed even if the owner, as provided in article 5, third paragraph, is not entitled to limit his liability.

*Article 8.* If before the fund is distributed any person has paid compensation for oil damage, that person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Act or the applicable law of another Convention State.

Where the owner or any other person establishes that he may be compelled to pay at a later date any such amount of compensation with regard to which he would have enjoyed a right of subrogation under the first paragraph had the compensation been paid before the fund was distributed, the court may order that a sum be provisionally set aside to enable him at such later date to enforce his claim against the fund.

Claims in respect of expenses incurred or sacrifices made by the owner voluntarily in connexion with preventive measures shall rank equally with other claims against the fund.

*Article 9.* Where a fund is constituted in accordance with article 6 and the owner is entitled to limit his liability, no claim for compensation may be brought against any other assets of the owner if such claim can be brought against the fund.

Where in a case as referred to in the first paragraph other property belonging to the owner has been arrested or attached in respect of a claim for compensation which can be brought against the fund, the said property shall be released. Any security furnished by the owner to avoid such arrest or attachment shall be returned to him.

Where a fund is constituted in another Convention State, the provisions of the first and second paragraphs shall apply only if the claimant has access to the court or authority administering the fund and the fund is actually available in respect of his claim.

*Article 10.* Rights of compensation under this Act shall be extinguished unless an action is brought within three years from the date when the damage occurred. However, in no case shall an action be brought after six years from the date of the incident which caused the damage or, where the incident consisted of a series of occurrences, from the date of the first such occurrence.

*Article 11.* The right to compensation from the International Oil Pollution Compensation Fund shall be governed by separate provisions.

#### *Insurance*

*Article 12.* The owner of a Swedish ship carrying more than 2,000 tons of oil in bulk as cargo shall be required to obtain and maintain insurance or give other adequate security to cover his liability under this Act or the applicable law of another Convention State within the limits prescribed by article 5, first paragraph. Such requirement shall not, however, be incumbent on the State.

The insurance or security referred to in the first paragraph must be approved by the King or an authority designated by the King.

If the requirements of the first paragraph have been complied with by the owner, the authority designated by the King shall issue a certificate attesting that this has been done. In the case of a ship owned by a State, the authority designated by the King shall issue a certificate stating that the ship is owned by the Swedish State and that its liability is covered within the limits prescribed by article 5, first paragraph.

The form of the certificate referred to in the third paragraph shall be determined by the King. The certificate shall be carried by the ship.

*Article 13.* Insurance or other adequate security covering the owner's liability under this Act or the applicable law of another Convention State within the limits prescribed by article 5, first or second paragraph, shall be in force in respect of a foreign ship entering or leaving a Swedish port, or arriving at or leaving an off-shore terminal in the Swedish territorial sea, if the ship actually carried more than 2,000 tons of oil in bulk as cargo. This provision shall not apply to a ship owned by a foreign State.

The ship shall carry a certificate showing that the insurance or security referred to in the first paragraph is in force. A ship owned by a foreign State shall carry a certificate stating that the ship is owned by that State and that the ship's liability is covered within the limits prescribed by article 5, first or second paragraph.

Regulations concerning the certificate referred to in the second paragraph shall be made by the King or an authority designated by the King.

*Article 14.* In so far as a person entitled to compensation is concerned, insurance as referred to in article 12 or 13 shall confer the right to bring a claim for compensation directly against the insurer.

The insurer may, however, avail himself of the defences which the owner himself would have been entitled to invoke or of the defence that the damage resulted from the wilful misconduct of the owner. The liability of the insurer shall in no case exceed the limits of liability prescribed in article 5, first or second paragraph.

An insurer shall not avail himself of any defence exceeding what is provided in the second paragraph by invoking against a person other than the owner a defence which he might have been entitled to invoke against the owner.



*Article 15.* Save as otherwise stipulated by the insurer, the insurance shall cover the liability incurred by the ship's owner under this Act or the applicable law or another Convention State.

*Article 16.* The provisions of articles 14 and 15 in respect of insurance shall apply, *mutatis mutandis*, to any other kind of security referred to in article 12 or 13.

*Jurisdiction of courts and related matters*

*Article 17.* Actions for compensation under this Act may be brought in Sweden only if oil pollution damage has occurred in Sweden or preventive measures have been taken to prevent or minimize such damage in Sweden.

Where a Swedish court has jurisdiction under the first paragraph, actions for compensation in respect of other oil damage resulting from the same incident may also be brought in Sweden.

*Article 18.* An action for compensation for oil damage which, according to article 17, may be brought in Sweden shall be brought in the maritime court situated nearest to the place where the damage occurred.

Where actions for compensation for damage that was caused by the same incident have been brought in two or more courts, one of such courts shall be designated to deal with all the actions.

Where a fund is constituted in Sweden under article 6 and the owner or insurer against whom actions for compensation have been brought in Sweden or in another Convention State is entitled to limit his liability, the court in which the fund is constituted shall determine all matters relating to the distribution of the sum representing the limit of liability.

*Article 19.* Where a judgement in an action for compensation for oil damage has been given in another Convention State and the courts of that State are competent under the Liability Convention in respect of actions to which the judgement relates, the judgement, when it has become final and enforceable in the State in which it was given, shall, upon application and save as otherwise provided in article 9 or article 18, third paragraph, be enforced in Sweden without any further determination of the case that was decided by the judgement. There shall be no obligation under this provision for the enforcement of a foreign judgement if the sum representing the limit of liability of the ship's owner would thereby be exceeded.

Applications for enforcement shall be made to the Svea court of appeal. An application shall be accompanied by:

1. The original or a certified true copy of the judgement;
2. A statement by the competent authority of the State in which the judgement was given that the judgement relates to compensation under the Liability Convention and that the judgement has become final and enforceable in the said State.

The aforementioned documents shall be certified as having been issued by a competent authority. The certification shall be issued by the Swedish Embassy or a Swedish consul or by the chief of the Department of Justice of the State in which the judgement was given. A relevant document which is

drafted in a foreign language other than Danish or Norwegian shall be accompanied by a Swedish translation. The translation shall be notarized by a diplomatic or consular officer or by a Swedish notary public.

An application for enforcement shall not be approved without the other party to the proceedings having had an opportunity to express an opinion on the application.

If the application is approved, the judgement shall be enforced in the same manner as a Swedish judgement which has become final unless the Supreme Court, acting on an appeal from the judgement of the court of appeals, determines otherwise.

*Article 20.* Where, in accordance with the provisions of the Liability Convention, a fund is constituted in another Convention State under law of that State and the owner or insurer against whom an action or compensation has, under this Act, been brought in a Swedish court is entitled to limit his liability, the court, in its judgement in the action for compensation, shall order that judgement may not be enforced until after matters relating to the distribution of the fund have been determined in the foreign State according to the law of that State.

#### *Penal provisions*

*Article 21.* A ship's owner who wilfully or through negligence disregards the provisions of this Act concerning the obligation to obtain and maintain insurance or to give security shall be liable to a fine or to imprisonment for a term of not more than six months.

The same penalty shall apply to a ship operator who allows a ship to be used for navigation even though he was, or ought to have been, aware that the obligation in respect of insurance or the giving of security prescribed by this Act had not been complied with. For the purposes of this provision, an operator shall be deemed to include a person managing the ship's operation on the operator's behalf and the ship's master.

Failure to carry on board a ship, while it is being used for navigation, the certificate prescribed by article 12 or 13 shall be punishable by a fine, which shall be levied against the master of the ship.

#### *Other provisions*

*Article 22.* The provisions of this Act shall not apply to oil damage caused by warships or by other ships which, at the time of the incident, are owned or operated by a State and are being used only on government non-commercial service. Where, however, such a ship has caused oil pollution damage in Sweden, or where preventive measures have been taken to prevent or minimize such damage in Sweden, the provisions of article 1, article 2, third paragraph, and articles 3 to 5, 10 and 18 shall apply.

Where oil pollution damage has been caused in Sweden by a ship which, at the time of the incident, was not carrying oil in bulk as cargo, or where preventive measures have been taken to prevent or minimize such damage in Sweden, the provisions of article 1, article 2, third and fifth paragraphs, and

articles 3, 10 and 18 shall apply. In such cases, the provisions of chapter 10 of the Maritime Act (1891: 35, p. 1) shall apply to the owner's right to limit his liability. The amount of liability shall be determined in accordance with the provisions of article 235 of the Maritime Act.

(d) ACT NO. 1199 of 17 DECEMBER CONCERNING COMPENSATION  
FROM THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND<sup>1</sup>

*Article 1.* The provisions of articles 1-13 of the Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, adopted at Brussels on 18 December 1971,<sup>2</sup> shall, in so far as they do not exclusively regulate the mutual obligations of the contracting States and subject to what is hereinafter provided, be given effect as Swedish law.

*Article 2.* Amounts paid by the Fund as compensation under article 4 or as indemnification under article 5 may be recovered by the Fund from the persons referred to in article 4, fourth paragraph, of the Act (1973: 1198) concerning liability for oil damage at sea<sup>3</sup> only under the conditions specified in the said article 4, fourth paragraph. Furthermore, such amounts may be recovered by the Fund from persons other than the owner or his guarantor only to the extent compatible with article 25, first paragraph, of the Act (1927: 77) concerning insurance contracts.

*Article 3.* An action for compensation for pollution damage which, under article 7, first or third paragraph, may be brought before a court in Sweden shall be brought before a court which, under article 18 of the Act (1973: 1198) concerning liability for oil damage at sea,<sup>3</sup> has jurisdictional competence over an action against the ship's owner in respect of the same incident.

*Article 4.* The notification referred to in article 7, sixth paragraph, shall be governed, *mutatis mutandis*, by those provisions of chapter 14, articles 12 and 13, of the Code of Judicial Procedure which relate to notice of legal proceedings.

*Article 5.* Enforcement under article 8 of a judgement given in an action for compensation for pollution damage shall be governed, *mutatis mutandis*, by the provisions of article 19 of the Act (1973: 1198) concerning liability for oil damage at sea.<sup>4</sup>

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<sup>1</sup> SFS 1973: 1199, *Swedish Code of Statutes*, 11 January 1974. Swedish text provided by the Permanent Representative of Sweden to the United Nations in a note verbale of 4 February 1974. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Infra* Part II, Division I, Subdivision A, 2.

<sup>3</sup> *Supra* (c).

<sup>4</sup> *Supra* (c).

(e) ROYAL ORDER NO. 278 OF 2 JUNE 1972 CONCERNING MEASURES  
TO PREVENT THE POLLUTION OF WATER BY VESSELS<sup>1</sup>

*Introductory provisions*

*Paragraph 1.* The term "diesel oil" as used in the Act of 2 June 1972 (1972: 275)<sup>2</sup> concerning measures to prevent the pollution of water by vessels, article 3, means diesel oil of which at least 50 per cent by volume remains after distillation at a temperature not exceeding 340°C. when tested by A.S.T.M. Standard Method D.86/59.

*Prohibition of pollution by vessels*

*Paragraph 2.* The provisions of the Act (1972: 275)<sup>2</sup> concerning measures to prevent the pollution of water by vessels, article 1, second paragraph, shall also apply in the case of a Swedish tank vessel having a gross tonnage of less than 150 register tons and in the case of other Swedish vessels having a gross tonnage of less than 500 register tons and an engine power of not less than 400 horse-power effective. The National Administration of Shipping and Navigation (*Sjöfartsverket*) may allow derogations from this provision.

*Paragraph 3.* Off the north-east coast of Australia the distance from the nearest land, as referred to in the Act (1972: 275) concerning measures to prevent the pollution of water by vessels, article 2,<sup>3</sup> is computed from a line drawn between the following points; that is to say:

<i>South latitude</i>	<i>East longitude</i>
11° 00'	142° 08'
10° 35'	141° 55'
10° 00'	142° 00'
9° 10'	143° 52'
9° 00'	144° 30'
13° 00'	144° 00'
15° 00'	146° 00'
18° 00'	147° 00'
21° 00'	153° 00'
24° 42'	153° 15'

<sup>1</sup> SFS 1972: 278, *Swedish Code of Statutes*, 15 June 1972. As provided in the Statute, this Order came into force on 1 July 1972. It superseded Order No. 191 of 2 May 1958, reproduced in ST/LEG/SER.B/15, pp. 513-515. Swedish text provided by the Permanent Representative of Sweden to the United Nations in a note verbale of 13 March 1973. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Supra* (b).

<sup>3</sup> *Ibid.* Until such time as the amendments of 1969 to the International Convention of 1954 for the Prevention of Pollution of the Sea by Oil have entered into force, Act No. 275 of 2 June 1972, article 2, shall apply in respect of a foreign vessel only if the vessel's home country is a country which already applies the amended rules of the Convention. Otherwise, discharge of oil from foreign vessels is subject, as appropriate, to article 2 of Act No. 86 of 6 April 1956 (reproduced in ST/LEG/SER.B/15, pp. 287-288) and of paragraph 1 of the annex to Order No. 191 of 2 May 1958 (*ibid.*, pp. 513-515).

*Paragraph 4.* Regulations under the Act (1972: 275) concerning measures to prevent the pollution of water by vessels, article 4, in respect of prohibiting the release of waste matter, other than oil, produced through the operation of a vessel shall be made by the Commander-in-Chief of the Navy in the case of warships and by the State Environment Protection Agency in the case of other vessels. Both authorities shall consult with each other in this matter and with the State Social Welfare Board and the Shipping and Navigation Administration.<sup>1</sup>

*Equipment of vessels, etc.*

*Paragraph 5.* Regulations under the Act (1972: 275) concerning measures to prevent the pollution of water by vessels, article 5, in respect of the construction and equipment of vessels and in respect of the certificate referred to in article VI a<sup>2</sup> of the 1954 International Convention for the Prevention of Pollution of the Sea by Oil shall be made by the Shipping and Navigation Administration in consultation with the State Environment Protection Agency.

The Shipping and Navigation Administration shall furnish to the Inter-Governmental Maritime Consultative Organization (IMCO) the information which, under item 2.3.4 of annex C to the Convention for the Prevention of Pollution of the Sea by Oil, is to be supplied by the government administration.

*Paragraph 6.* A Swedish vessel may be used for marine navigation only if it is constructed and equipped in conformity with the regulations made pursuant to the Act (1972: 275) concerning measures to prevent the pollution of water by vessels, article 5. A Swedish tank vessel having a gross tonnage of not less than 150 register tons may not be used for marine navigation if it lacks a certificate as prescribed in that article.

*Paragraph 7.* A tank vessel having a gross tonnage of not less than 150 register tons may not enter or be in such part of Sweden's territorial sea or such loading or unloading point at sea under Swedish control as the National Administration of Shipping and Navigation may designate if the vessel lacks a certificate as prescribed in the Act (1972: 275) concerning measures to prevent the pollution of water by vessels, article 5, or an equivalent document made out by a competent foreign authority. The National Administration of Shipping and Navigation may allow derogations from the prohibition if it is shown in some other way that the vessel fulfils the requirements of the

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<sup>1</sup> Until such time as regulations by the commander-in-chief of the Swedish Navy and by the State Environment Protection Agency, both as referred to in this paragraph, have entered into force, the status of regulations pursuant to article 4 of Act No. 275 of 2 June 1972 shall attach to decisions by the county administration (*länsstyrelsen*) which have been made pursuant to paragraph 3 of Order No. 191 of 2 May 1958 (ST/LEG/SER.B/15, pp. 513-515).

<sup>2</sup> Adopted by the Seventh Assembly of IMCO in Resolution A.246 (VII) of 15 October 1971.

International Convention of 1954 for the Prevention of Pollution of the Sea by Oil,<sup>1</sup> article VI a,<sup>2</sup> or if any special grounds exist.

*Paragraph 8.* A Swedish vessel may not carry water in a fuel tank. The National Administration of Shipping and Navigation may allow derogations from the prohibition.

#### *Oil record book*

*Paragraph 9.* Regulations under the Act (1972: 275) concerning measures to prevent the pollution of water by vessels, article 8, first paragraph, first sentence, in respect of the oil record book shall be made by the Shipping and Navigation Administration in consultation with the Customs Administration.

During the period that the oil log book must be preserved after the date of the last entry, it shall be kept on board the vessel or by whoever was the vessel's operator or owner at the time of the last entry.

#### *Dumping stations*

*Paragraph 10.* Installations for the reception of oil residues and oily mixtures shall be provided in the public harbour of the ports of Luleå, Stockholm, Norrköping, Malmö, Helsingborg and Göteborg.

Arrangements of a simpler type for the reception of limited amounts of oil residues shall be provided in the public harbour of the ports of Piteå, Skellefteå, Umeå, Härnösand, Sundsvall, Hudiksvall, Söderhamn, Gävle, Södertälje, Oskarshamn, Kalmar, Visby, Slite, Karlskrona, Trelleborg, Landskrona, Falkenberg, Lidköping, Karlstad, Kristinehamn, Västerås and Köping.

Regulations concerning the installations and arrangements referred to in the first and second paragraphs shall be made by the Shipping and Navigation Administration.

#### *Special measures for the prevention of pollution*

*Paragraph 11.* A decision under the Act (1972: 275) concerning measures to prevent the pollution of water by vessels, article 11, first paragraph, may be made by the Customs Administration if, in view of the need for prompt action to prevent, minimize or combat pollution, it is not possible to wait for a decision from the Shipping and Navigation Administration.

*Paragraph 12.* The regulations referred to in article 11, third paragraph, of the Act (1972: 275) concerning measures to prevent the pollution of water by vessels shall be made by the State Environment Protection Agency.

#### *Supervision*

*Paragraph 13.* To the extent that nothing is prescribed to the contrary, supervision of the observance of the Act (1972: 275) concerning measures to

<sup>1</sup> United Nations, *Treaty Series*, vol. 327, p. 3. The Convention as amended in 1962 is reproduced in ST/LEG/SER.B/15, pp. 787-799.

<sup>2</sup> Adopted by the Seventh Assembly of IMCO in Resolution A.246 (VII) of 15 October 1971.

prevent the pollution of water by vessels and of regulations made pursuant to the Act shall be performed by the commander-in-chief of the Swedish Navy in respect of naval vessels and by the National Administration of Shipping and Navigation in respect of other vessels.

*Paragraph 14.* Instructions for the exercise of supervision over the oil record books shall be issued by the Shipping and Navigation Administration in consultation with the National Police Administration and the Customs Administration.

#### *Other provisions*

*Paragraph 15.* The Act (1972: 275) concerning measures to prevent the pollution of water by vessels shall, except as regards its articles 5-8, 11-14, 16 and 17, likewise apply to a Swedish State-owned vessel not commercially operated.

*Paragraph 16.* Any regulation made pursuant to the Act (1972: 275) concerning measures to prevent the pollution of water by vessels or to this Order other than a regulation made by the commander-in-chief of the Swedish Navy shall be included in the publication *Underrättelser för Sjöfarande* ("Swedish Shipping Gazette").

(f) ORDER OF 6 JUNE 1972 BY THE NATIONAL ADMINISTRATION OF SHIPPING AND NAVIGATION CONCERNING MEASURES TO PREVENT THE POLLUTION OF WATER BY VESSELS<sup>1</sup>

Pursuant to the Royal Order (1972:278)<sup>2</sup> concerning measures to prevent the pollution of water by vessels, the National Administration of Shipping and Navigation has deemed it proper to direct as follows.

*Paragraph 1.* Where nothing is indicated to the contrary, this Order applies to Swedish vessels and foreign vessels in the territorial sea of Sweden and to Swedish vessels outside the territorial sea of Sweden.

*Paragraph 2.* A Swedish tank vessel having a gross tonnage of not less than 150 register tons shall conform to the regulations governing the arrangement of tanks and the limitation of their size contained in the International Convention in force for the Prevention of Pollution of the Sea by Oil, the text of which is annexed to this Order as *annex 1*.<sup>3</sup>

*Paragraph 3.* Except where it is manifestly unnecessary, a vessel shall be equipped with a bilge-water separator and with arrangements for the collection of oil, e.g. troughs or cofferdams under day's-supply tanks, separators, filters, cocks, shore connexions and other arrangements from which oil may leak. Such an arrangement in an engine space or pump room

<sup>1</sup> *Gazette of the National Administration of Shipping and Navigation*, Series A, No. 8, 30 June 1972. Came into force on 1 July 1972. Swedish text provided by the Permanent Representative of Sweden to the United Nations in a note verbal of 13 March 1973. Translation by the Secretariat of the United Nations.

<sup>2</sup> *Supra* (c).

<sup>3</sup> Annex I is not reproduced. For the text of the Convention as amended in 1962, see ST/LEG/SER.B/15, pp. 787-799.

shall be drained to a collecting tank for waste oil and oily water. The collecting tank shall be equipped with devices preventing oil-gas from escaping from the tank and thereby creating an explosion risk or other danger.

The oil drain outlet from the bilge-water separator shall be connected to the waste-oil collecting tank.

Arrangements shall be made to ensure that waste oil and oily water collected in gutters in the engine compartment and pump room are drained through a bilge-water separator to a collecting tank.

Collecting tanks for waste oil and oily water shall be equipped with internationally standardized connexions for discharging the tanks into reception (dumping) installations in harbours. The connexions shall meet the requirements laid down in IMCO resolution A 234 (VII), the text of which is annexed to this Order as *annex 2*.<sup>1</sup>

...

*Paragraph 5.* The Royal Order (1972:278) concerning measures to prevent the pollution of water by vessels states in its paragraph 6 that a Swedish vessel not fulfilling the requirements of paragraphs 3 and 4 may not be used for marine navigation.

Where a foreign vessel fails to meet the requirements of paragraphs 2, 3 and 4, the National Administration of Shipping and Navigation may require special safety measures to be taken on the vessel.

...

*Paragraph 7.* The duty to keep an oil log on a vessel is prescribed in the Act (1972:275) concerning Measures to Prevent the Pollution of Water by Vessels,<sup>2</sup> article 8.

The oil log on a tank vessel shall be kept in accordance with form A and on other vessels in accordance with form B, which are annexed to this Order as *annex 4* and *annex 5*<sup>3</sup> respectively.

*Paragraph 8.* An entry in the oil log shall be made tank by tank whenever one of the following measures is taken on the vessel:

(a) *On a tank vessel:*

1. Loading a cargo of oil;
2. Shifting of oil cargo *en route*;
3. Discharging of oil cargo;
4. Ballasting of cargo tanks;
5. Cleaning of cargo tanks;
6. Discharge of polluted ballast;
7. Discharge of water from slop tanks;
8. Disposal of oil residues;

<sup>1</sup> Annex 2 is not reproduced.

<sup>2</sup> *Supra (b)*.

<sup>3</sup> Annexes 4 and 5 are not reproduced.



9. Discharge overboard of bilge-water containing oil that has collected in the engine space (pump room included) during a stay in port, and routine discharge at sea of bilge-water containing oil if it has not been recorded in some other appropriate log.

(b) *On a vessel other than a tank vessel:*

1. Ballasting or cleaning of fuel tanks;
2. Discharge of polluted ballast or spill water from tanks as referred to under 1;
3. Disposal of oil residues;
4. Discharge overboard of bilge-water containing oil that has collected in the engine space during a stay in port, and routine discharge at sea of bilge-water containing oil if it has not been recorded in some other appropriate log.

In the discharge or outflow of oil or oily mixtures for the purpose of preventing damage to the vessel or cargo or of saving human lives or because of damage to the vessel or unavoidable leakage, the circumstances surrounding and grounds for the discharge or outflow shall be recorded in the oil log.

...

### 13. UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

(a) [DUMPING AT SEA ACT 1974]<sup>1</sup>

(b) MERCHANT SHIPPING ACT 1974<sup>2</sup>

#### PART I

##### *The International Oil Pollution Compensation Fund*

1. (1) In this Part of this Act—

(a) The “Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage opened for signature in Brussels on 29 November 1969;<sup>3</sup>

(b) The “Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage opened for signature in Brussels on 18 December 1971;<sup>4</sup>

(c) “the Fund” means the International Fund established by the Fund Convention; and

(d) “Fund Convention country” means a country in respect of which the Fund Convention is in force.

<sup>1</sup> *Supra*, Division I, Subdivision A, Chapter VII, 16 (b).

<sup>2</sup> Chapter 43, 31 July 1974. As provided in section 24 (2), the Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument.

<sup>3</sup> Reproduced in ST/LFG/SER.B/16, pp. 447-454.

<sup>4</sup> *Infra*, Part II, Division 1, Subdivision A.3.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Fund Convention in respect of any country so specified the Order shall, while in force, be conclusive evidence that that State is a party to the Convention in respect of that country.

(3) In this Part of this Act, unless the context otherwise requires—

the “Act of 1971” means the Merchant Shipping (Oil Pollution) Act 1971;<sup>1</sup>

“damage” includes loss;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil carried by the ship;

“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 10 of the Act of 1971;

“oil”, except in sections 2 and 3, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever the escape or discharge may occur, and includes the cost of preventive measures and further damage caused by preventive measures;

“preventive measures” means any reasonable measures taken by any person after the occurrence to prevent or minimize pollution damage;

“ship” means any sea-going vessel and any seaborne craft of any type whatsoever carrying oil in bulk as cargo.

(4) For the purposes of this Part of this Act a ship’s tonnage shall be the net tonnage of the ship with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage.

If the ship cannot be measured in accordance with the normal rules, its tonnage shall be deemed to be 40 per cent of the weight in tons (of 2240 lbs.) of oil which the ship is capable of carrying.

(5) For the purposes of this Part of this Act, where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

(6) In this Part of this Act a franc shall be taken to be a unit of 65½ milligrammes of gold of millesimal fineness 900.

(7) The Secretary of State may from time to time by order made by statutory instrument specify the amounts which for the purposes of this Part of this Act are to be taken as equivalent to any specified number of francs.

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<sup>1</sup> Partially reproduced in ST/LEG/SER.B/16, pp. 260-263.

*Contributions to Fund*

2. (1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in the United Kingdom.

(2) Subsection (1) above applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in the United Kingdom after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions is—

(a) In the case of oil which is being imported into the United Kingdom, the importer; and

(b) Otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of the oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.

(6) For the purpose of subsection (5) above—

(a) All the members of a group of companies shall be treated as a single person; and

(b) Any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall—

(a) Be of such amount as may be determined by the Assembly of the Fund under Articles 11 and 12 of the Fund Convention and notified to him by the Fund;

(b) Be payable in such instalments, becoming due at such times, as may be so notified to him;

and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the said Assembly, until it is paid.

(8) The Secretary of State may by regulations contained in a statutory instrument impose on persons who are or may be liable to pay contributions under this section obligations to give security for payment to the Secretary of State, or to the Fund.

Regulations under this subsection—

(a) May contain such supplemental or incidental provisions as appear to the Secretary of State expedient;

(b) May impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding £400, or such lower limit as may be specified in the regulations; and

(c) Shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(9) In this and the next following section, unless the context otherwise requires—

“company” means a body incorporated under the law of the United Kingdom, or of any other country;

“group” in relation to companies, means a holding company and its subsidiaries as defined by section 154 of the Companies Act 1948 (or for companies in Northern Ireland section 148 of the Companies Act (Northern Ireland) 1960), subject, in the case of a company incorporated outside the United Kingdom, to any necessary modifications of those definitions;

“importer” means the person by whom or on whose behalf the oil in question is entered for customs purposes on importation, and “import” shall be construed accordingly;

“oil” means crude oil and fuel oil, and

(a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation; and includes—

- (i) Crude oils from which distillate fractions have been removed; and
- (ii) Crude oils to which distillate fractions have been added;

(b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D 396-69)”, or heavier.

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

(10) In this section “sea” does not include any waters on the landward side of the baselines from which the territorial sea of the United Kingdom is measured.

3. (1) For the purpose of transmitting to the Fund the names and addresses of the persons who under the last preceding section are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Secretary of State may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by subsection (6) of the last preceding section.

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under the last preceding section, particulars contained in any list transmitted by the Secretary of State to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against

whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connexion with the execution of this section, he shall, unless the disclosure is made—

(a) With the consent of the person from whom the information was obtained; or

(b) In connexion with the execution of this section; or

(c) For the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

be liable on summary conviction to a fine not exceeding £400.

(6) A person who—

(a) Refuses or wilfully neglects to comply with a notice under this section; or

(b) In furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be liable—

(i) On summary conviction to a fine not exceeding £400; and

(ii) On conviction on indictment to a fine, or to imprisonment for a term not exceeding twelve months, or to both.

#### *Compensation for persons suffering pollution damage*

4. (1) The Fund shall be liable for pollution damage in the United Kingdom if the person suffering the damage has been unable to obtain full compensation under section 1 of the Act of 1971 (which gives effect to the Liability Convention)—

(a) Because the discharge or escape causing the damage—

(i) Resulted from an exceptional, inevitable and irresistible phenomenon; or

(ii) Was due wholly to anything done or left undone by another person (not being a servant or agent or the owner) with intent to do damage; or

(iii) Was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible,

(and because liability is accordingly wholly displaced by section 2 of the Act of 1971), or

(b) Because the owner or guarantor liable for the damage cannot meet his obligations in full; or

(c) Because the damage exceeds the liability under section 1 of the Act of 1971 as limited—

- (i) By section 4 of the Act of 1971; or
- (ii) (where the said section 4 is displaced by section 9 of this Act) by section 503 of the Merchant Shipping Act 1894.<sup>1</sup>

(2) Subsection (1) above shall apply with the substitution for the words “the United Kingdom” of the words “A Fund Convention country” where—

(a) The headquarters of the Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country; or

(b) The incident has caused pollution damage both in the United Kingdom and in another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the United Kingdom.

(3) Where the incident has caused pollution damage both in the United Kingdom and in another country in respect of which the Liability Convention is in force, references in this section to the provisions of the Act of 1971 shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country and the Fund is liable for that pollution damage by virtue of subsection (2) (a) above, references in this section to the provisions of the Act of 1971 shall be treated as references to the corresponding provisions of the law of the country in which those proceedings were brought.

(5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimize pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 1 of the Act of 1971.

(7) The Fund shall incur no obligation under this section if—

(a) It proves that the pollution damage—

- (i) Resulted from an act of war, hostilities, civil war or insurrection; or
- (ii) Was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the

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<sup>1</sup> Reproduced in part in ST/LEG/SER.B/5 and Add.1, pp. 180-186.

time of the occurrence, only on Government non-commercial service;  
or

(b) The claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.

(8) If the Fund proves that the pollution damage resulted wholly or partly—

(a) From an act or omission done with intent to cause damage by the person who suffered the damage; or

(b) From the negligence of that person,

the Fund may be exonerated wholly or partly from its obligation to pay compensation to that person:

Provided that this subsection shall not apply to a claim in respect of expenses or sacrifices made voluntarily to prevent or minimize pollution damage.

(9) Where the liability under section 1 of the Act of 1971 is limited to any extent by subsection (5) of that section (contributory negligence), the Fund shall be exonerated to the same extent.

(10) The Fund's liability under this section shall be subject to the limits imposed by paragraphs 4, 5 and 6 of Article 4 of the Fund Convention which impose an overall liability on the liabilities of the owner and of the Fund, and the text of which is set out in Schedule 1 to this Act.

(11) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by the production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.

(12) For the purpose of giving effect to the said provisions of Article 4 of the Fund Convention a Court giving judgement against the Fund in proceedings under this section shall notify the Fund, and—

(a) No steps shall be taken to enforce the judgement unless and until the court gives leave to enforce it;

(b) That leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under the said provisions of Article 4 of the Fund Convention, or that it is to be reduced to a specified amount; and

(c) In the latter case the judgement shall be enforceable only for the reduced amount.

#### *Indemnification of shipowners*

5. (1) Where a liability is incurred under section 1 of the Act of 1971 in respect of a ship registered in a Fund Convention country the Fund shall indemnify the owner and his guarantor for that portion of the aggregate amount of the liability which—

(a) Is in excess of an amount equivalent to 1500 francs for each ton of the ship's tonnage or of an amount of 125 million francs, whichever is the less; and

(b) Is not in excess of an amount equivalent to 2000 francs for each ton of the said tonnage or an amount of 210 million francs, whichever is the less.

(2) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country (but is a country in respect of which the Liability Convention is in force), and either—

(a) The incident has caused pollution damage in the United Kingdom (as well as in that other country); or

(b) The headquarters of the Fund is for the time being in the United Kingdom,

subsection (1) above shall apply with the omission of the words "under section 1 of the Act of 1971".

(3) The Fund shall not incur an obligation under this section where the pollution damage resulted from the wilful misconduct of the owner.

(4) In proceedings to enforce the Fund's obligation under this section the court may exonerate the Fund wholly or partly if it is proved that, as a result of the actual fault or privity of the owner—

(a) The ship did not comply with such requirements as the Secretary of State may by order prescribe for the purposes of this section; and

(b) The occurrence or damage was caused wholly or partly by that non-compliance.

(5) The requirements referred to in subsection (4) above are such requirements as appear to the Secretary of State appropriate to implement the provisions of—

(a) Article 5 (3) of the Fund Convention (marine safety conventions); and

(b) Article 5 (4) of the Fund Convention (which enables the Assembly of the Fund to substitute new conventions).

(6) An order made under subsection (4) above—

(a) May be varied or revoked by a subsequent order so made; or

(b) May contain such transitional or other supplemental provisions as appear to the Secretary of State to be expedient; and

(c) Shall be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimize the pollution damage shall be treated as included in the owner's liability for the purposes of this section.



## PART II

*Oil tankers*

10. (1) In this Part of this Act “the Conventions” means—

(a) Article VI *bis* and Annex C of the International Convention, signed in London on 12 May 1954, for the Prevention of Pollution of the Sea by Oil, which Article and Annex were added on 15 October 1971 by resolution of the Assembly of the Inter-governmental Maritime Consultative Organization;<sup>1</sup> and

(b) Any other international convention, or amendment of an international convention, which relates in whole or in part to prevention of pollution of the sea by oil, and which has been signed for the United Kingdom before the passing of this Act, or later.

(2) In this Part of this Act “Convention country” means a country in respect of which a State is a party to any of the Conventions.

(3) If Her Majesty by Order in Council declares that any State specified in the Order is a party to any of the Conventions in respect of any country so specified, the Order shall, while in force, be conclusive evidence that that State is a party to the Convention in respect of that country.

(4) In this Part of this Act—

“oil tanker” means a ship which is constructed or adapted primarily to carry oil in bulk in its cargo spaces (whether or not it is also so constructed or adapted as to be capable of carrying other cargoes in those spaces),

“United Kingdom oil tanker” means an oil tanker registered in the United Kingdom,

“oil” means crude oil, fuel oil (including diesel oil) and lubricating oil,

“port” includes an off-shore terminal, and references to entering or leaving a port shall include references to using or ceasing to use an off-shore terminal.

11. (1) For the purpose of preventing pollution of the sea by oil, the Secretary of State may make rules (called “oil tanker construction rules”) prescribing requirements to be complied with by United Kingdom oil tankers in respect of their design and construction.

(2) The said rules may include such requirements as appear to the Secretary of State to implement any of the provisions of the Conventions, so far as they relate to prevention of pollution of the sea by oil.

This subsection applies whether or not the said provisions are for the time being binding on Her Majesty’s Government in the United Kingdom.

(3) Oil tanker construction rules may provide—

(a) For oil tankers to be surveyed and inspected with a view to determining whether they comply with the rules;

(b) For a tanker which on a survey is found to comply to be issued with a certificate called a “tanker construction certificate”; and

<sup>1</sup> Adopted by the Seventh Assembly of IMCO in Resolution A.246 (VII) of 15 October 1971.

(c) For a tanker which is not required to comply with the rules to be issued with a certificate called a "tanker exemption certificate".

(4) Schedule 2 to this Act shall have effect for supplementing this Part of this Act.

(5) It is hereby declared that the oil tankers to which rules under this section may be applied include those designed or constructed before the rules come into force, and that the following provisions of this Part of this Act apply whether the oil tanker in question was designed or constructed before or after the relevant requirements as to design or construction came into force.

(6) Oil tanker construction rules shall be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

12. (1) No oil tanker shall proceed, or attempt to proceed, to sea unless—

(a) It is a certificated oil tanker (within the meaning of Schedule 3 to this Act); or

(b) It is not registered in the United Kingdom; and—

(i) If it were a United Kingdom oil tanker, it would qualify for the issue of a tanker exemption certificate; or

(ii) Its gross tonnage is less than 150 tons; or

(c) The Secretary of State has issued it with leave to sail.

(2) Where an application is made for leave to sail to be issued to an oil tanker, then—

(a) If the tanker is registered in the United Kingdom, the Secretary of State may issue it with leave to sail where he considers it appropriate to do so;

(b) If the tanker is not registered in the United Kingdom, the Secretary of State—

(i) Shall issue it with leave to sail if he is satisfied that it would qualify for the issue of a tanker construction certificate if it were a United Kingdom oil tanker; and

(ii) May, if he is not so satisfied, issue it with leave to sail where he considers it appropriate to do so.

(3) Leave to sail issued under paragraph (a) or (b) (ii) of subsection (2) above may be issued subject to conditions imposed with a view to preventing or limiting the danger of oil pollution, including—

(a) Conditions as to the cargo with which the tanker may sail;

(b) A condition that the tanker sails only to a specified port in the United Kingdom or elsewhere.

(4) Subject to subsection (5) below, if—

(a) An oil tanker proceeds, or attempts to proceed, to sea in contravention of subsection (1) above; or

(b) Leave to sail having been issued to an oil tanker under this section subject to conditions, it proceeds to sea but the conditions are not complied with,

the owner and master of the tanker shall each be liable on summary conviction to a fine of not more than £10,000, or on conviction on indictment to a fine.

(5) In proceedings under subsection (4) above, it shall be a defence to prove that in order—

(a) To ensure the safety of the oil tanker; or

(b) To reduce the risk of damage to any other vessel or property,

it was necessary for the tanker to proceed to sea in contravention of subsection (1) above or, as the case may be, without complying with the conditions mentioned in paragraph (b) of section (4).

In this section “damage” does not include damage caused by contamination resulting from the escape or discharge of oil from a tanker.

13. (1) If it appears to the Secretary of State that an oil tanker is not certificated (within the meaning of Schedule 3 to this Act) he may direct the oil tanker—

(a) Not to enter any port in the United Kingdom (or not to enter one or more specified ports in the United Kingdom); or

(b) Not to enter all or any ports in the United Kingdom except subject to specified conditions.

(2) A direction may be given under this section in respect of an oil tanker which is for the time being in a port in the United Kingdom, so as to apply after it leaves that port.

(3) Directions under this section shall be addressed to the master or owner of the tanker, or to both, and may be communicated by any means which appear to the Secretary of State suitable for the purpose.

(4) Subject to subsection (5) below, if an oil tanker enters a port in the United Kingdom in contravention of a direction under this section, or without complying with any conditions imposed under this section, the owner and the master of the tanker shall each be liable on summary conviction to a fine not exceeding £15,000, or on conviction on indictment to a fine.

(5) In proceedings under subsection (4) above, it shall be a defence to prove that the tanker entered the port out of necessity due—

(a) To an emergency involving a threat to any person’s life or the safety of the tanker; or

(b) To circumstances outside the control of the tanker’s master.

### PART III

#### *Protection of shipping and trading interests*

14. (1) The Secretary of State may exercise the powers conferred by this section if he is satisfied that a foreign government, or any agency or

authority of a foreign government, have adopted, or propose to adopt, measures or practices concerning or affecting the carriage of goods by sea which—

(a) Are damaging or threaten to damage the shipping or trading interests of the United Kingdom; or

(b) Are damaging or threaten to damage the shipping or trading interests of another country, and the Secretary of State is satisfied that action under this section would be in fulfilment of the international obligations of Her Majesty's Government to that other country.

(2) The Secretary of State may by order make provision for requiring persons in the United Kingdom carrying on any trade or business to provide the Secretary of State with all such information as he may require for the purpose of enabling him—

(a) To determine what further action to take under this section; and

(b) To ensure compliance with any orders or directions made or given under this section.

(3) The Secretary of State may by order provide for—

(a) Regulating the carriage of goods in ships and the rates which may or must be charged for carrying them;

(b) Regulating the admission and departure of ships to and from United Kingdom ports, the cargoes they may carry, and the loading or unloading of cargoes;

(c) Regulating the making and implementation of agreements (including charter-parties) whose subject matter relates directly or indirectly to the carriage of goods by sea, and requiring such agreements to be subject to the Secretary of State's approval in such cases as he may specify;

(d) Imposing charges in respect of ships which enter United Kingdom ports to load or unload cargo.

(4) In a case falling within subsection (1) (a) above, an order under subsection (3) above shall specify the measures or practices which in the opinion of the Secretary of State are damaging or threaten to damage shipping or trading interests of the United Kingdom.

(5) An order under this section may authorize the Secretary of State to give directions to any person for the purposes of the order.

Provided that this subsection shall not apply for the purpose of recovering charges imposed under subsection (3) (d) above.

(6) Any order or direction made or given under this section—

(a) May be either general or special, and may be subject to such conditions or exceptions as the Secretary of State specifies (including conditions and exceptions operating by reference to the giving or withholding of his approval for any course of action);

(b) May be in terms that require compliance either generally or only in specified cases;

(c) May be varied or revoked by a subsequent order, or as the case may be, a subsequent direction, so made or given,

and an order made pursuant to this section shall be contained in a statutory instrument.

(7) Before the Secretary of State makes an order under this section he shall consult such representatives of the shipping or trading interests of the United Kingdom, and such other persons, as appear to him appropriate.

(8) If a person discloses any information which has been furnished to or obtained by him under this section, or in connexion with the execution of this section, he shall, unless the disclosure is made—

(a) With the consent of the person from whom the information was obtained; or

(b) In connexion with the execution of this section; or

(c) For the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

be liable on summary conviction to a fine not exceeding £400.

(9) A person who—

(a) Refuses or wilfully neglects to furnish any information which he is required to furnish under this section; or

(b) In furnishing any such information makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be liable on summary conviction to a fine not exceeding £400.

(10) A person who wilfully contravenes or fails to comply with any provision of an order or direction made or given pursuant to this section, other than a provision requiring him to give any information, shall be liable—

(a) On summary conviction to a fine of not more than £5,000;

(b) On conviction on indictment to a fine;

and where the order or direction requires anything to be done, or not to be done, by, to or on a ship, and the requirement is not complied with, the owner and master of the ship are each to be regarded as wilfully failing to comply, without prejudice to the liability of anyone else.

(11) In this section “foreign government” means the government of any country outside the United Kingdom; and references to ships are to ships of any registration.

(12) Schedule 4 to this Act shall have effect for supplementing this section, which in that Schedule is called “the principal section”.

15. (1) No order shall be made in exercise of the powers conferred by subsection (3) of the last preceding section unless—

(a) A draft has been approved by resolution of each House of Parliament; or

(b) It is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.

(2) An order made in exercise of the powers conferred by the said subsection (3) without a draft having been approved by resolution of each House of Parliament shall cease to have effect at the expiration of a period of 28 days beginning with the date on which it was made unless before the expiration of that period it has been approved by resolution of each House of Parliament, but without prejudice to anything previously done, or to the making of a new order.

In reckoning for the purposes of this subsection any period of 28 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(3) An order under the last preceding section which is not made in exercise of the powers conferred by subsection (3) of that section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) If an order under that section recites that it is not made in exercise of the powers conferred by the said subsection (3), the recital shall be conclusive.

#### *PART IV*

##### *Submersible apparatus*

16. (1) This Part of this Act applies to any submersible or supporting apparatus—

(a) Operated within waters which are in the United Kingdom or which are adjacent thereto and within the seaward limits of territorial waters; or

(b) Launched or operated from, or comprising, a ship registered in the United Kingdom or a British ship of a specified description (being a British ship which is not registered in the United Kingdom).

(2) In this section—

“apparatus” includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment;

“specified” means specified in regulations made by the Secretary of State for the purposes of this section,

“submersible apparatus” means any apparatus used, or designed for use, in supporting human life on or under the bed of any waters or elsewhere under the surface of any waters, and

“supporting apparatus” means any apparatus used or designed for use, in connexion with the operation of any submersible apparatus.

17. (1) The Secretary of State may make regulations—

(a) For the safety of submersible and supporting apparatus;

(b) For the prevention of accidents in or near submersible or supporting apparatus;

(c) For the safety, health and welfare of persons on or in submersible and supporting apparatus;

(d) For prohibiting or otherwise restricting the operation of any submersible apparatus except in accordance with the conditions of a licence granted under the regulations; and

(e) For the registration of submersible apparatus.

(2) Regulations made under this section shall be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Schedule 5 to this Act shall have effect for supplementing the provisions of this section.

...

## SCHEDULES

### SCHEDULE 1. OVERALL LIMIT ON LIABILITY OF FUND

#### Article 4—paragraphs 4, 5 and 6

4. (a) Except as otherwise provided in sub-paragraph (b) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage caused in the territory of the Contracting States, including any sums in respect of which the Fund is under an obligation to indemnify the owner pursuant to Article 5, paragraph 1, of this Convention, shall not exceed 450 million francs.

(b) The aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 450 million francs.

5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under the Liability Convention and this Convention shall be the same for all claimants.

6. The Assembly of the Fund (hereinafter referred to as "the Assembly") may, having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to changes in the monetary values, decide that the amount of 450 million francs referred to in paragraph 4, sub-paragraph (a) and (b), shall be changed; provided, however, that this amount shall in no case exceed 900 million francs or be lower than 450 million francs. The changed amount shall apply to incidents which occur after the date of the decision effecting the change.

### SCHEDULE 2. OIL TANKERS

#### Surveys, inspections and certificates

1. (1) Oil tanker construction rules may provide for any surveys or inspections under the rules to be undertaken, and certificates to be issued, in such circumstances as may be specified in the rules, by persons appointed by such organizations as may be authorized for the purpose by the Secretary of State.

(2) Sub-paragraph (1) above shall have effect notwithstanding section 86 of the Merchant Shipping Act 1894 (which requires certain surveys and measurements to be carried out by officers of the Secretary of State).

(3) The rules may apply any of the following provisions of the Merchant Shipping Act 1894 with such exceptions or modifications as may be prescribed by the rules, that is—

- (a) Section 272(2) (surveyor to deliver declaration of survey to owner);
- (b) Section 273 (owner to deliver declaration to Secretary of State);
- (c) Section 275 (appeal to court of survey);
- (d) Section 276 and sections 278 to 281 (provisions about certificates);
- (e) Section 282 (forgery of certificate or declaration of survey).

*Duty to notify alterations*

2. (1) The rules may require the owner of a United Kingdom oil tanker to notify the Secretary of State of any alteration to the tanker which may affect the question of its qualification or continued qualification for a tanker construction certificate or a tanker exemption certificate.

(2) If any person contravenes the rules by failing to notify such an alteration, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

*Clearance of outgoing tanker*

3. (1) Before a certificated oil tanker proceeds to sea, the master of the tanker shall produce the certificate to the officer of customs from whom a clearance for the ship is demanded.

(2) Before any oil tanker which is not certificated proceeds to sea, the master of the tanker shall produce to the officer of customs from whom a clearance for the ship is demanded evidence to the satisfaction of the officer that the departure will not be in contravention of section 12 of this Act.

(3) A clearance shall not be granted, and the tanker may be detained, until the certificate or other evidence is so produced.

*Inspection of foreign tanker*

4. (1) For the purpose of determining whether an oil tanker not registered in the United Kingdom is certificated, or whether, if it were a United Kingdom oil tanker, it would qualify for the issue of a tanker construction certificate or a tanker exemption certificate, a competent officer may at all reasonable times go on board the tanker and inspect any part of it, and call for the production of any document carried in the tanker.

(2) An officer exercising powers under this paragraph shall not unnecessarily detail or delay a tanker but may, if he considers it necessary in order to determine—

(a) Whether the tanker should be issued with leave to sail under section 12 of this Act, or whether leave to sail should be issued subject to any conditions under subsection (3) of that section; or

(b) Whether an order should be issued in respect of the tanker under section 13 of this Act,

require the tanker to be taken into dock for a survey of its hull, cargo-spaces or fuel-tanks.

(3) If any person obstructs an officer acting under this paragraph, or fails to comply with a requirement made under sub-paragraph (2) above, or fails to produce a document carried in the tanker when called on by the officer to produce it, he shall be guilty of an offence and liable on summary conviction to a fine of not more than £100.



(4) In this paragraph "competent officer" means an officer of the Secretary of State authorized by him to act thereunder.

(5) Nothing in this paragraph prejudices section 76 of the Merchant Shipping Act 1970 (general powers of inspection).

#### *Offences*

5. (1) Oil tanker construction rules may provide for the punishment of any contravention of or failure to comply with the rules by making a person liable on summary conviction to a fine not exceeding £100, or such lower limit as may be specified in the rules.

(2) This paragraph is without prejudice to liability for any offence against the rules for which a punishment is provided by some other provision of this Act.

#### *Fees*

6. Oil tanker construction rules—

(a) May, with the approval of the Treasury, prescribe the fees payable in respect of surveys and inspections carried out, and certificates issued, under the rules;

(b) Shall, subject to sub-paragraph (c) below, provide for all fees payable under the rules to be paid to the Secretary of State; and

(c) May, in the case of surveys and inspections carried out, and certificates issued, by persons appointed by organizations authorized under paragraph 1 above, provide for fees to be payable to those persons or organizations.

#### *SCHEDULE 3. CERTIFICATED OIL TANKERS*

1. In Part II of this Act a "certificated oil tanker" means one falling within paragraphs 2, 3 or 4 below.

2. An oil tanker is certificated if it is a United Kingdom oil tanker in respect of which a tanker construction certificate or a tanker exemption certificate is in force.

3. (1) An oil tanker registered in a Convention country (other than the United Kingdom) is certificated if a certificate corresponding to a tanker construction certificate or tanker exemption certificate duly issued under the law of that country is in force in respect of the tanker.

(2) The Secretary of State may by order in a statutory instrument declare that for the purposes of this paragraph a certificate of a kind specified in the order is one which corresponds to a tanker construction certificate or tanker exemption certificate, and is of a kind which is issued under the law of a Convention country so specified.

(3) An order under this paragraph shall, while the order is in force, be conclusive evidence of the facts stated in the order.

4. (1) An oil tanker is certificated if a certificate of a prescribed kind issued under the law of a country which is not a Convention country is in force as respects the oil tanker.

(2) In this paragraph "prescribed" means prescribed by order of the Secretary of State contained in a statutory instrument.

5. An order made under this Schedule may be varied or revoked by a subsequent order so made.

**SCHEDULE 4. PROTECTION OF SHIPPING AND TRADING INTERESTS**

*Customs powers*

1. (1) An order made under the principal section with the consent of the Commissioners of Customs and Excise may provide for the enforcement and execution of any order or direction under the principal section by officers of customs and excise.

(2) Officers of customs and excise acting under any provision made under sub-paragraph (1) above shall have power to enter any premises or vessel.

(3) Section 53 of the Customs and Excise Act 1952 (power to refuse or cancel clearance of ship or aircraft) shall apply as if the principal section and this Schedule were contained in that Act.

*Orders imposing charges*

2. (1) An order under subsection (3) (d) of the principal section—

(a) May apply to ships of any description specified in the order, and may apply in particular to ships registered in a specified country, or ships carrying specified goods or cargoes; and

(b) May contain such provisions as appear to the Secretary of State expedient to enable the Commissioners of Customs and Excise to collect any charge imposed by the order; and

(c) May apply any of the provisions of the customs Acts which relate to duties of customs, subject to any modifications or exceptions specified in the order.

(2) The charge so imposed may be a fixed amount, or may be an amount depending on the tonnage of the ship.

(3) Any such charge shall be payable to the Secretary of State.

*Criminal proceedings*

3. A person shall not be guilty of an offence against any provision contained in or having effect under the principal section or this Schedule by reason only of something done by that person wholly outside the area of the United Kingdom unless that person is a British subject or a company incorporated under the law of any part of the United Kingdom.

*Interpretation*

4. In the principal section “port” includes an off-shore terminal, and references to entering or leaving a port shall include references to using or ceasing to use an off-shore terminal.

**SCHEDULE 5. REGULATIONS RELATING TO SUBMERSIBLE AND SUPPORTING APPARATUS**

1. (1) In this Schedule “regulations” means regulations made under section 17 of this Act, and “prescribed” means prescribed by regulations.

(2) Nothing in this Schedule shall be taken to prejudice the generality of section 17 of this Act.

*Registration of submersible apparatus*

2. Regulations made by virtue of section 17 (1) (e) of this Act may make provision—

(a) For all matters relevant to the maintenance of a register of submersible apparatus;

(b) Without prejudice to sub-paragraph (a) above, for the period for which any registration or exemption is to remain effective without renewal, the alteration or cancellation in any prescribed circumstances of registration or exemption or of any conditions attached thereto, the person by whom and manner in which applications in connexion with any registration or exemption are to be made, and information and evidence to be furnished in connexion with any such application;

(c) For the marking or other means of identification of any submersible apparatus;

(d) For the issue of certificates of registration or exemption, and the custody, surrender, production or display of the certificates or copies of them;

(e) For matters arising out of the termination of any registration or exemption, or any conditions attached thereto.

*Offences*

3. (1) Subject to sub-paragraph (2) below, regulations—

(a) May provide for the creation of offences and for their punishment on summary conviction or on conviction on indictment; and

(b) May afford, in respect of any description of offence created by the regulations, such defence (if any) as may be prescribed.

(2) The punishment for an offence created by regulations shall be—

(a) On summary conviction a fine not exceeding £400;

(b) On conviction on indictment imprisonment for a term not exceeding 2 years, or a fine, or both,

but without prejudice to any further restriction contained in the regulations on the punishments which can be awarded and without prejudice to the exclusion by the regulations of proceedings on indictment.

*Exemptions from regulations*

4. (1) The operation of any regulations may be excluded in whole or in part in relation to any class or description of submersible or supporting apparatus by regulations, or in relation to any particular apparatus by the direction of the Secretary of State given in such manner as he thinks appropriate.

(2) Any exemption or exclusion by regulations or by directions of the Secretary of State under this paragraph may be made subject to the imposition of conditions specified by the regulations or directions.

(3) Where, in pursuance of this paragraph, a person is exempted or excluded from the requirements of the provisions of regulations but, subject to a condition, and the condition is not observed, the exemption or exclusion shall not have effect, and accordingly proceedings may be brought in respect of any offence created by the regulations.

*General*

5. Regulations—

(a) May provide for their operation anywhere outside the United Kingdom and for their application to persons, whether or not British subjects, and to companies, whether or not incorporated under the law of any part of the United Kingdom;

(b) May provide that in any proceedings for an offence under the regulations an averment in any process of the fact that anything was done or situated within waters to which this Act applies shall, until the contrary is proved, be sufficient evidence of that fact as stated in the averment;

(c) May provide that proceedings for any offence under the regulations may be taken, and the offence be treated for all incidental purposes as having been committed, in any place in the United Kingdom;

(d) May provide for any provisions of the Merchant Shipping Acts 1894 to 1970 relating to inquiries and investigations into shipping casualties to apply (with such modifications as may be specified) in relation to casualties involving any submersible apparatus which is not a ship as they apply to ships;

(e) May provide that specified provisions of any enactment (other than this Act) shall, in such circumstances as may be prescribed, not have effect in relation to such class or description of, or to such particular, submersible or supporting apparatus as may be prescribed;

(f) May make different provision for different classes or descriptions of submersible or supporting apparatus and for different circumstances;

(g) May contain such supplemental, and incidental provisions as appear to the Secretary of State to be expedient, including provision for requiring the payment of fees in connexion with the making of applications and the granting of licences or issue of certificates, or other matters.

(c) OIL IN NAVIGABLE WATERS (EXCEPTIONS) REGULATIONS 1972<sup>1</sup>

...

3. *Interpretation.* (1) In these Regulations,

In relation to all land other than the part of the coast of Australia specified below, "from the nearest land" means from the nearest baseline from which the territorial sea of any territory is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958.

In relation to the part of the North-eastern coast of Australia which lies between points 11° 00' S., 142° 08' E. and 24° 42' S., 153° 15' E., "from the nearest land" means from the nearest of the straight lines joining consecutively the following points: 11° 00' S., 142° 08' E.; 10° 35' S., 141° 55' E.; 10° 00' S., 142° 00' E.; 9° 10' S., 143° 52' E.; 9° 00' S., 144° 30' E.; 13° 00' S.; 144° 00' E.; 15° 00' S., 146° 00' E.; 18° 00' S., 147° 00' E.; 21° 00' S., 153° 00' E.; 24° 42' S.; 153° 15' E.;

<sup>1</sup> Dated 8 December 1972. *Statutory Instruments*, 1972 No. 1928. Came into operation on 5 January 1973. By these Regulations, the Oil in Navigable Waters (Exceptions) Regulations 1967, reproduced in ST/LEG/SER.B/15, pp. 537-539, were revoked.

“Instantaneous rate of discharge of oil content” when expressed in litres per mile means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant;

“Mile” means an international nautical mile that is to say a distance of 1,852 metres;

“Proceeding” means in relation to any voyage making way through the water in the normal course of that voyage;

“Tanker” means a vessel the greater part of the cargo space of which is constructed or adapted for the carriage of liquid cargoes in bulk and which is either carrying a cargo of oil in bulk in that part of its cargo space or has on board oil residues from a cargo of oil in bulk previously carried;

“ballast voyage” means any voyage of a tanker on which that tanker is not carrying oil in bulk as cargo but has on board oil residues from a cargo of oil in bulk carried on the voyage immediately preceding that voyage.

(2) The Interpretation Act, 1889<sup>1</sup> shall apply to the interpretation of these Regulations as if these Regulations and the Regulations hereby revoked were Acts of Parliament.

4. *Exceptions for ships other than tankers and for tankers in relation to their machinery space bilges.* (1) This Regulation applies to ships other than tankers, and to tankers in relation only to discharge of oil or mixtures containing oil from their machinery space bilges.

(2) Every ship to which this Regulation applies is hereby excepted from the operation of section 1 (1) of the principal Act<sup>2</sup> as amended by the Oil in Navigable Waters Act, 1971<sup>3</sup> (hereinafter called “the 1971 Act”) if all the following conditions are satisfied:

- (i) The ship is proceeding on a voyage;
- (ii) The instantaneous rate of discharge of oil content does not exceed 60 litres per mile;
- (iii) The oil content of the discharge is less than 100 parts per 1,000,000 parts of the mixture; and
- (iv) The discharge is made as far as practicable from the nearest land.

5. *Exception for tankers.* (1) Every tanker is hereby excepted from the operation of section 1 (1) of the Principal Act as amended by the 1971 Act provided that either

- (a) All the following conditions are satisfied;
- (i) The tanker is proceeding on a ballast voyage;

<sup>1</sup> 1889 c. 63.

<sup>2</sup> “The principal Act” in these Regulations means the Oil in Navigable Waters Act 1955 (1955 c. 25). The Act, as amended in 1963, is reproduced in part in ST/LEG/SER.B/15, pp. 520-530.

<sup>3</sup> 1971 c. 21. The Oil in Navigable Waters Acts 1955 (principal Act), 1963 and 1971 were repealed through their consolidation into the Prevention of Oil Pollution Act 1971 (reproduced in part in ST/LEG/SER.B/16, pp. 242-259) which entered into force on 1 March 1973.

- (ii) The instantaneous rate of discharge of oil content does not exceed 60 litres per mile;
  - (iii) The total quantity of oil discharged during the voyage does not exceed 1/15,000 of the total oil cargo carrying capacity of the tanker; and
  - (iv) The tanker is more than 50 miles from the nearest land; or
- (b) All the following conditions are satisfied:
- (i) The tanker is proceeding on a voyage immediately following a ballast voyage and still has on board oil residues from a cargo of oil in bulk previously carried; and
  - (ii) The only oil discharged is oil from those oil residues; and
  - (iii) Conditions (ii) and (iv) of subparagraph (1)(a) of this Regulation are satisfied; and
  - (iv) The total quantity of oil discharged during that voyage and the immediately preceding ballast voyage does not exceed 1/15,000 of the total oil cargo carrying capacity of the tanker; or

(c) The discharge consists only of ballast from a cargo tank which since the cargo was last carried therein, has been so cleaned that any effluent therefrom, if it were discharged from a stationary tanker into clean calm water on a clear day, would produce no visible traces of oil on the surface of the water.

(2) This Regulation does not apply to discharge of oil or mixtures containing oil from the machinery space bilges of tankers.

(d) OIL IN NAVIGABLE WATERS (RECORDS) REGULATIONS 1972<sup>1</sup>

2. *Interpretation and revocation.* (1) In these Regulations—

“tanker” means a vessel the greater part of the cargo space of which is constructed or adapted for the carriage of liquid cargoes in bulk and which is either carrying a cargo of oil in bulk in that part of its cargo space or has on board oil residues from a cargo of oil in bulk previously carried.

“tons” means tons gross tonnage.

(2) The Interpretation Act 1889<sup>2</sup> shall apply to the interpretation of these Regulations as if these Regulations and the Regulations hereby revoked were acts of Parliament.

<sup>1</sup> Dated 8 December 1972. *Statutory Instruments*, 1972 No. 1929. Came into operation on 5 January 1973. By these Regulations, the Oil in Navigable Waters (Records and Reports) Regulations 1967, reproduced in part in ST/LEG/SER.B/15, pp. 539-540, were revoked.

<sup>2</sup> 1889 c. 63.

3. *Records: tankers.* (1) The master of every ship to which section 7 (1) of the principal Act<sup>1</sup> applies, being a tanker, shall carry on board ship an oil record book, and shall record in such book the following matters, namely—

(a) Any of the following operations carried out on board or in connexion with the ship, namely—

- (i) Loading of oil cargo;
- (ii) Transfer of oil cargo during a voyage;
- (iii) Discharge of oil cargo;
- (iv) Ballasting of cargo tanks;
- (v) Cleaning of cargo tanks;
- (vi) Discharge of dirty ballast;
- (vii) Discharge of water from slop tanks;
- (viii) Disposal of oil residues;
- (ix) Discharge overboard of oily bilge water which has accumulated in machinery spaces including pump rooms whilst in port;
- (x) Subject to subparagraph (3), the routine discharge at sea of oily bilge water;

(b) Any occasion on which oil or a mixture containing oil is discharged from a 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) Entries shall be made in the said book in respect of the operations specified in subparagraph (a) of paragraph (1) above, and in respect of every occasion specified in subparagraphs (b) and (c) of that paragraph in the form and containing the particulars set out in Schedule 1 to these Regulations.

(3) (i) The requirement to keep a record in the form required by paragraphs (1) and (2) of this Regulation shall not apply to any discharge referred to in paragraph (1) (a) (x) of this Regulation, in so far as it relates to the discharge of oily bilge water from machinery spaces, including pump rooms, if such discharge has been entered in the engine room log book or deck log book.

(ii) Any entry relating to the discharge of oily bilge water from machinery spaces, including pump rooms, whether made in the oil record book or in the engine room log book or deck log book, shall state whether the discharge was made through a separator. Where the pump discharging such bilge water starts automatically and discharges through a separator at all times it will be sufficient to enter each day "Automatic discharge from bilges through a separator".

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<sup>1</sup> For the meaning and the status of the "principal Act", see foot-notes to Regulation 4 of the Regulations reproduced under (a) *supra*.

4. *Records: ships other than tankers.* (1) The master of every ship to which section 7 (1) of the principal Act applies of 80 tons or more which uses oil fuel, not being a tanker, shall carry on board ship an oil record book and shall record in such book the following matters, namely—

(a) Any of the following operations carried out on board or in connexion with the ship, namely—

- (i) Ballasting or cleaning of bunker fuel tanks;
- (ii) Discharge of dirty ballast or cleaning water from bunker fuel tanks;
- (iii) Disposal of oil residues;
- (iv) Discharge overboard of oily bilge water which has accumulated in machinery spaces including pump rooms whilst in port;
- (v) Subject to subparagraph (3), the routine discharge at sea of oily bilge water;

(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) Entries shall be made in the said book in respect of the operations specified in subparagraph (a) of paragraph (1) above, and in respect of every occasion specified in subparagraphs (b) and (c) of that paragraph in the form and containing the particulars set out in Schedule 2 to these Regulations.

- (3) (i) The requirements to keep a record in the form required by paragraphs (1) and (2) of this Regulation shall not apply to any discharge referred to in paragraph (1) (a) (v) of this Regulation, in so far as it relates to the discharge of oily bilge water from machinery spaces, including pump rooms, if such discharge has been entered in the engine room log book or deck log book.
- (ii) Any entry relating to the discharge of oily bilge water from machinery spaces, including pump rooms, whether made in the oil record book or in the engine room log book or deck log book, shall state whether the discharge was made through a separator.

Where the pump discharging oily bilge water starts automatically and discharges through a separator at all times it will be sufficient to enter each day "Automatic discharge from bilges through a separator".

5. *Retention, custody and disposal of records.* (1) Every master of a ship in respect of which records are required to be kept pursuant to the preceding Regulations shall retain the records in his custody in the ship until the expiration of the period of two years next following the date of the last entry therein:

Provided that if the principal place of business of the owners of the ship is in the United Kingdom the master may at any time within that period transmit the records of the owners at that place of business.

(2) Records transmitted to the owners of a ship pursuant to the proviso to paragraph (1) of this Regulation shall be retained by them in their custody



at their principal place of business in the United Kingdom until the expiration of the period of two years next following the date of the last entry therein.

...

(e) [PREVENTION OF OIL POLLUTION ACT 1971  
(COMMENCEMENT) ORDER 1973]<sup>1</sup>

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<sup>1</sup> Dated 12 February 1973. *Statutory Instruments*, 1973 No. 203 (C.6). This Order brought into operation the Prevention of Oil Pollution Act 1971 (1971 c. 60) on 1 March 1973. The Act of 1971 is reproduced in part in ST/LEG/SER.B/16, pp. 242-259.