

Division IV
THE HIGH SEAS

1. BANGLADESH

[TERRITORIAL WATERS AND MARITIME ZONES ACT, 1974, Section 8]¹

2. DENMARK

(a) ACT ON THE PROTECTION OF THE MARINE ENVIRONMENT OF THE
BALTIC SEA AREA, 1975²

PART 1

Application Area

Section 1. The purpose of this Act set up in accordance with the Convention on the Protection of the Marine Environment of the Baltic Sea Area³ is to prevent and combat marine pollution in the Baltic Sea Area by oil, noxious liquid substances, sewage and garbage from ships and floating or fixed platforms.

Section 2. For the purpose of this Act, "the Baltic Sea Area" shall be the Baltic Sea, the Gulf of Bothnia, the Gulf of Finland, the Sound and the Belts, bounded by the parallel of the Skaw in the Kattegat at 57° 44' 08" N.

Section 3. For the purpose of this Act, "discharge" shall mean any release or disposal at sea from ships, including other waterborne means of transport, and floating or fixed platforms.

Subscription (2). Discharge does not include:

(1) dumping as provided for in Act on Prevention of Pollution of the Sea by Matter Other than Oil,⁴

¹ *Supra*, division I, subdivision A, chap. I, 2.

² Act No. 324 of 26 June 1975. English text provided by the Ministry of Foreign Affairs of Denmark in a note verbale of 11 October 1977.

³ Reproduced in ST/LEG/SER.B/18, p. 518.

⁴ Reproduced in ST/LEG/SER.B/16, p. 207.

(2) placement of substances or material for purposes other than the mere disposal thereof, and

(3) release at sea of harmful substances directly arising from the exploration or exploitation of sea-bed mineral resources.

Section 4. This Act applies to the following ships and platforms while operating in the Baltic Sea Area:

(1) ships which are Danish-owned or operate in Danish territorial waters, and

(2) platforms which are Danish-owned or operate in Danish territorial waters or on the Danish Continental Shelf.

Subsection (2). For ships and platforms not flying the flag of a State Party to the Convention on the Protection of the Marine Environment of the Baltic Sea Area, the discharge provisions of sections 5, 10, 14 and 16 of this Act shall only apply as far as the set-up and equipment of the ships and platforms permit.

Subsection (3). This Act shall not apply to naval ships and to other ships owned or operated by a State and used for the time being only on government non-commercial service.

PART 2

Oil

Section 5. Discharge of any form of petroleum and mixture thereof including refined products, other than petrochemicals which are subject to the provisions of Part 3 of this Act, shall only take place in accordance with the provisions of sections 6-8 of this Act.

Section 6. Discharge of oily mixtures may take place from ships of less than 400 gross register tons other than oil tankers, provided the oil content of the effluent without dilution does not exceed 15 parts per million or provided all the following conditions are satisfied:

(1) the ship is proceeding en route,

(2) the oil content of the effluent is less than 100 parts per million, and

(3) the discharge is made not less than 12 nautical miles from the baseline from which the territorial sea is established in accordance with international law (nearest land).

Subsection (2). "Oil tanker" means a ship constructed or adapted to carry or actually carrying oil in bulk.

Section 7. Discharge of oily mixtures may take place from platforms, provided the oil content of the effluent without dilution does not exceed 15 parts per million.

Section 8. Ballast may be discharged from a tank which since oil was last carried therein has been cleaned so that ballast water therefrom, if it were discharged from a ship under way but stopped and making no way through the water, into clean calm water would not produce visible traces of oil on or below the water surface.

Subsection (2). Notwithstanding the presence of visible traces ballast water may be discharged, provided the discharge is made through an oil discharge system and the oil content of the effluent without dilution does not exceed 15 parts per million.

Subsection (3). For ships flying the flag of a State Party to the Convention on the Protection of the Marine Environment of the Baltic Sea Area the system referred to in subsection (2) hereof shall be approved by the competent authorities of that State.

Subsection (4). For Danish ships the system referred to in subsection (2) hereof shall be approved by the Government Ships Inspection Service.

Section 9. Any oil tanker, other ships of 400 gross register tons and above in which fuel oil is used for propulsion, and platforms shall keep an Oil Record Book.

Subsection (2). The Minister for the Environment is empowered to issue detailed regulations on the keeping and design of the Oil Record Book.

Subsection (3). At the request of the authorities referred to in subsection (1) of section 23, and subsection (1) of section 24 of this Act, or of one of the competent authorities of a State Party to the Convention on the Protection of the Marine Environment of the Baltic Sea Area, the owner or user of the ship or platform and the Master of the ship shall be obliged to produce the Oil Record Book and to furnish certified copies thereof.

PART 3

Noxious Liquid Substances and Other Liquid Substances in Bulk

Section 10. Discharge of noxious liquid and other liquid substances in bulk, the vapour pressure of which does not exceed 2.8 kp/cm² at a temperature of 37.8 C, and mixtures of such substances shall only take place in accordance with the regulations issued under section 11 of this Act.

Subsection (2). For the purposes of this Act, "noxious liquid substances" means substances which when discharged into the sea may present a hazard to human health and to marine resources, or cause harm to amenity values or other legitimate uses of the sea.

Section 11. The Minister for the Environment is empowered to issue detailed regulations on the categorization of noxious liquid substances and other liquid substances in bulk, and regulations on special conditions for

discharge of categorized substances. Moreover, the Minister for the Environment is empowered to make lists of categorized noxious liquid substances and other liquid substances in bulk.

Section 12. Liquid substances not falling into the lists referred to in section 11 of this Act shall be categorized provisionally by the Minister for the Environment prior to transportation in bulk to or from Danish territorial waters.

Section 13. Ships adapted to carry or actually carrying noxious liquid substances in bulk (chemical tankers) shall keep a Cargo Record Book.

Subsection (2). The Minister for the Environment is empowered to issue detailed regulations on the design and keeping of the Cargo Record Book.

Subsection (3). At the request of the authorities referred to in subsection (1) of section 23, and subsection (1) of section 24 of this Act, or of one of the competent authorities of a State Party to the Convention on the Protection of the Marine Environment of the Baltic Sea Area, the owner or user of the ship and the Master of the ship shall be obliged to produce the Cargo Record Book and to furnish certified copies thereof.

PART 4

Sewage

Section 14. Discharge of drainage or other wastes from toilets, medical premises and spaces containing living animals (sewage) shall be made in accordance with the provisions of section 15 of this Act.

Section 15. Sewage may be discharged provided the ship or platform has in operation a sewage treatment plant and the sewage effluent does not produce visible traces in the surrounding water.

Subsection (2). Moreover, sewage may be discharged from ships provided it has passed through a system for sewage comminution and disinfection, and the discharge is taking place at a distance of more than 4 nautical miles from the nearest land, cf. paragraph (3) of subsection (1) of section 6 of this Act.

Subsection (3). Sewage may moreover be discharged from ships at a distance of more than 12 nautical miles from the nearest land. If the discharge is made from a sewage holding tank the ship shall be proceeding at not less than 4 knots and the discharge be made at a moderate rate.

Subsection (4). For ships flying the flag of a State Party to the Convention on the Protection of the Marine Environment of the Baltic Sea Area, the system and plant referred to in subsections (1) and (2) hereof shall be approved by the competent authority of that State. The letter of approval of the plant referred to in subsection (1) hereof shall be carried by the ship.

Subsection (5). For Danish ships and platforms the system and plant referred to in subsections (1) and (2) hereof shall be approved by the Government Ships Inspection Service.

PART 5

Garbage

Section 16. Discharge of all kinds of waste, excluding fresh fish and parts thereof, shall be made in accordance with the provisions of section 17 of this Act.

Section 17. Food waste may be discharged, provided the discharge is made at a distance of more than 12 nautical miles from the nearest land, cf. paragraph (3) of subsection (1) of section 6 of this Act.

Subsection (2). Discharge of food waste from platforms or from ships within 500 metres of such platforms may only take place provided the waste has passed through a comminuter.

PART 6

Harmful Substances in Packaged Forms, Containers etc.

Section 18. After consultation with the Minister of Commerce and the Minister of Public Works, the Minister for the Environment is empowered to issue detailed regulations on environmental aspects of loading and unloading in Danish Baltic Sea ports of harmful substances in packaged forms, containers etc., including regulations on transportation, notification and reports of accidents.

PART 7

Pleasure Craft

Section 19. The provisions of Parts 2-6 of this Act shall not apply to sailing boats and motor boats used as pleasure craft.

Subsection (2). The Minister for the Environment is empowered to issue regulations to be applied to discharge from pleasure craft.

PART 8

Reception Facilities

Section 20. After consultation with the Minister of Public Works and the Minister of Commerce, the Minister for the Environment is empowered to issue detailed regulations and to decide upon the provision and functioning of facilities for the reception of residues and mixtures of oil and noxious liquid substances and of sewage and garbage in Danish Baltic Sea ports.

PART 9

Exceptions

Section 21. The provisions of Parts 2-7 of this Act and regulations issued in pursuance thereof shall not apply to discharge for the purpose of saving life at sea or securing the safety of the ship or platform.

Section 22. The provisions of Parts 2 and 3 of this Act and regulations issued in pursuance thereof shall not apply to discharge into the sea of oily or noxious liquid substances for the purpose of scientific research into pollution abatement or marine pollution control. Permits to discharge for such purposes shall be granted by the Minister for the Environment or by his agent. Outside Danish territorial waters, such permit may also be granted by a competent authority in a State Party to the Convention on the Protection of the Marine Environment of the Baltic Sea Area.

PART 10

Co-operation and Reporting

Section 23. In case of discharge incidents or risk of discharge in contravention of Parts 2 and 3 of this Act, owners or users of ships and platforms and Masters of ships shall report immediately to the Minister for the Environment or to his agent. Moreover, reports shall be made of observation from a ship, platform or an aircraft of significant spills at sea of oil or noxious liquid substances.

Subsection (2). In case of discharge incidents as referred to in subsection (1) hereof, owners or users of ships and platforms and Masters of ships and aircraft shall furnish the Minister for the Environment or his agent and the authorities referred to in subsection (1) of section 24 of this Act with all particulars relevant to the institution of measures to prevent or combat marine pollution.

Subsection (3). The Minister for the Environment is empowered to issue detailed regulations on the implementation of the provisions of subsections (1) and (2) hereof. Moreover, the Minister for the Environment is empowered to direct that in case of incidents as referred to in subsections (1) and (2) hereof and provided the ship or platform is outside Danish territorial waters, reports shall be made to a competent authority in a State Party to the Convention on the Protection of the Marine Environment of the Baltic Sea Area.

PART 11

Control and Advice

Section 24. The Defence Services, the Inspection of Fisheries or other bodies authorized by the Minister for the Environment shall supervise compliance with the provisions of this Act and regulations issued under this Act.

Subsection (2). While discharging the functions referred to in subsection (1) hereof, the Defence Services or the Inspection of Fisheries may without Court order go on board a ship or a platform and take samples for the purpose of supervising compliance with this Act and the regulations issued under this Act.

Subsection (3). The Police shall assist the authorities referred to in subsection (1) hereof as agreed between the Minister for the Environment and the Minister of Justice.

Subsection (4). The powers referred to in Subsections (2) and (3) hereof may be exercised towards foreign ships and platforms passing through Danish territorial waters where the violation of the provisions of this Act and of the regulations under this Act have taken place or are expected to take place within Danish territory.

Section 25. The Board appointed pursuant to Act on Prevention of Pollution of the Sea by Oil shall assist the Minister for the Environment in implementing the provisions of this Act. The Board may submit recommendations to the Minister for the Environment on measures to combat marine pollution in the Baltic Sea Area by substances or matters derived from ships and platforms.

PART 12

Penalty and Entry into Force

Section 26. For violation of section 5, subsections (1) and (3) of section 9, subsection (1) of section 10, section 12, subsections (1) and (3) of section 13, sections 14, 16 and 22, or subsections (1) and (2) of section 23, the penalty shall be fine, detention or imprisonment for up to one year.

Subsection (2). In regulations issued pursuant to subsection (2) of section 9, section 11, subsections (1) and (3) of section 13, sections 14, 16 and 22, or subsections (1) and (2) of section 23, penalty may be provided for violation of the regulations, such as either fine; fine or detention; fine detention or imprisonment for up to one year.

Subsection (3). In case of violation committed by limited liability companies, co-operative societies or the like, the company as such shall be held liable to pay the fine.

Subsection (4). Violations are subject to police prosecution. The remedies contained in Parts 68, 69, 71 and 72 of the Administration of Justice Act shall be applied as in actions brought by the Public Prosecutor.

Section 27. In Act on Prevention of Pollution of the Sea by Oil, cf. Promulgation Order no. 124 of 7 April 1967, as amended by Act no. 151 of 10 May 1967, Act no. 49 of 3 February 1971 and Act no. 289 of 7 June 1972, the following section shall be inserted after section 11:¹

"Section 11 bis. This Act shall not apply to ships operating in the Baltic Sea, the Gulf of Bothnia, the Gulf of Finland, the Sound and the Belts, bounded by the parallel of the Skaw in the Kattegat at 57° 44' 08" N."

¹ Section 11 of the Act is reproduced in ST/LEG/SER.B/16, p. 211.

Section 28. The date of entry into force of this Act shall be fixed by the Minister for the Environment.

Subsection (2). The provisions of Part 4 of this Act may become effective gradually for specified groups of ships.

Subsection (3). The Minister for the Environment is empowered to exempt ships certified to carry more than 400 persons from complying with the provisions of this Act for a period of up to 10 years after its date of entry into force if it is satisfied that the application of the provisions would necessitate essential constructional alterations.

Section 29. This Act shall not apply to the Faroe Islands and Greenland. By Royal Order this Act may be made to apply to ships flying the flag of the Faroe Islands on less stringent terms adapted to the special conditions of these islands.

(b) ACT NO. 312 OF 26 JUNE 1975 AMENDING THE ACT ON MEASURES AGAINST POLLUTION OF THE SEA BY SUBSTANCES OTHER THAN OIL¹

Article 1

The following amendments shall be made to Act No. 290 of 7 June 1972² on measures against pollution of the sea by substances other than oil:

1. In section 2 (1), insert after the words "which are Danish-owned" the words "or Faroese-owned" and after the words "Danish territorial waters" the words "including the territorial waters surrounding the Faroe Islands".

2. In section 2 (2), insert after the words "which are Danish-owned" the words "or Faroese-owned", after the words "Danish territorial waters" the words "including the territorial waters surrounding the Faroe Islands", and after the words "Danish territory of the Continental Shelf" the words "including the territory of the Continental Shelf surrounding the Faroe Islands".

3. In section 3 (1), insert after the words "Within Danish territorial waters" the words "including the territorial waters surrounding the Faroe Islands".

4. After section 4, insert:

"Section 4 (a). Within the Baltic Sea area, which for the purposes of this Act shall mean the Baltic Sea, the Gulf of Bothnia, the Gulf of Finland, the Sound and the Belts together with the Kattegat up to the parallel running through Skagen (57° 44' 8" N), the Minister for Environmental Protection or his agent may, irrespective of the prohibition laid down in section 3, authorize dumping of dredged sea-bottom material onto some other portion of the sea-bottom, provided that the

¹ Text provided by the Ministry of Foreign Affairs of Denmark in a note verbale of 11 October 1977. Translation by the Secretariat of the United Nations.

² Reproduced in ST/LEG/SER.B/16, p. 207 (sects. 1-12).

material does not contain significant quantities or concentrations of the substances specified in annex 3. Dumping outside of Danish territorial waters may also be authorized by the competent authorities of any country which has acceded to the Convention on the Protection of the Marine Environment of the Baltic Sea Area.”¹

5. Section 5, subsection 1, sentence 1, shall read as follows:

“In marine areas outside of the Baltic Sea area, the Minister for Environmental Protection or his agent may authorize dumping irrespective of the prohibitions laid down in sections 3 and 4.”

6. In section 5, subsection 1, add after the first sentence:

“Authorization for dumping in the territorial waters surrounding the Faroe Islands must also be obtained from the National Executive of the Faroe Islands.”

7. In section 5, subsection 2, second sentence, insert after the words “Dumping of substances and materials not listed in Annexes” the words “1 and 2”.

8. In section 8, subsection 3, after the words “the circumstances which necessitated the dumping” add the sentence “The Minister for Environmental Protection may establish detailed regulations concerning such reports.”

9. In section 10, subsection 2, the words “Annexes 1 and 2” should be amended to read “Annexes 1, 2 and 3”.

10. In section 11, the words “into the sea” should be amended to read “into the sea outside the Baltic Sea area, cf. section 4 (a)”.

11. Section 44 is deleted.

12. The following shall be added as Annex 3 to the Act:

“ANNEX 3

“Authorization for dumping within the Baltic Sea area may be granted only if the dumped materials do not contain significant quantities or concentrations of the substances and materials listed below:

“1. DDT (1,1,1-trichloro-2, 2-bis = (4-chlorophenyl) = ethane) and its derivatives DDE and DDD.

“2. PCB’s (polychlorinated biphenyls).

“3. Mercury, cadmium and their compounds.

“4. Antimony, arsenic, beryllium, chromium, copper, lead, molybdenum, nickel, selenium, tin, vanadium, zinc and their compounds as well as elemental phosphorus.

“5. Phenols and their derivatives.

¹ Reproduced in ST/LEG/SER.B/18, p. 518.

- "6. Phthalic acid and its derivatives.
- "7. Cyanides.
- "8. Persistent halogenated hydrocarbons.
- "9. Polycyclic aromatic hydrocarbons and their derivatives.
- "10. Persistent toxic organosilicic compounds.
- "11. Persistent pesticides, including organophosphoric organostannic pesticides, herbicides, slimicides and chemicals used for the preservation of wood, timber, wood pulp, cellulose, paper, hides and textiles not listed above.
- "12. Radioactive materials.
- "13. Acids, alkalis and surface active agents in high concentrations or big quantities.
- "14. Oil and wastes of petrochemicals and other industries containing lipid-soluble substances.
- "15. Substances having adverse effects on the taste and/or smell of products for human consumption from the sea.
- "16. Substances having effects on taste, smell, colour, transparency or other characteristics of the water and seriously reducing its amenity values.
- "17. Materials and substances which may float, remain in suspension or sink, and which may seriously interfere with any legitimate use of the sea.
- "18. Lignin substances.
- "19. The chelators EDTA (ethylenedinitrilotetraacetic acid or ethylenediaminetetraacetic acid) and DTPA (diethylenetriaminopentaacetic acid)."

Article 2

1. The provisions of article 1, subparagraphs 1-3, 6 and 11, shall enter into force on 1 August 1975.
 2. The date of the entry into force of the provisions of article 1, subparagraphs 4, 5, 7, 8-10 and 12, shall be established by the Minister.
- (c) [EXECUTIVE ORDER No. 421 OF 24 AUGUST 1976 BY THE MINISTRY OF TRADE CONCERNING THE SAFETY ZONE AROUND THE OIL EXPLOITATION INSTALLATIONS AT DANFELTET ON THE CONTINENTAL SHELF IN THE NORTH SEA]¹
- (d) NOTICE OF 26 NOVEMBER 1976² BY THE MINISTRY OF FOREIGN AFFAIRS CONCERNING THE EXTENSION TO THE FAROE ISLANDS OF THE CONVENTION OF 15 FEBRUARY 1972 FOR THE PREVENTION OF MARINE POLLUTION BY DUMPING FROM SHIPS AND AIRCRAFT³

¹ *Supra*, division III, 7.

² Danish text provided by the Ministry of Foreign Affairs of Denmark in a note verbale of 11 October 1977. Translation by the Secretariat of the United Nations.

³ Reproduced in ST/LEG/SER.B/16, p. 457.

With effect from 1 November 1976, the Convention of 15 February 1972 for the prevention of marine pollution by dumping from ships and aircraft shall also apply to the Faroe Islands. As from the said date, the reservation concerning the application of the Convention to the Faroe Islands, made when Denmark deposited its instrument of ratification with the Norwegian Government on 28 July 1972 (cf. Executive Order No. 35 of 3 April 1974 by the Ministry of Foreign Affairs, *Official Gazette C*), was revoked.

- (e) NOTICE OF 26 NOVEMBER 1976 BY THE MINISTRY OF FOREIGN AFFAIRS CONCERNING THE EXTENSION TO THE FAROE ISLANDS OF THE CONVENTION OF 29 DECEMBER 1972 ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER¹

With effect from 15 November 1976, the Convention of 29 December 1972 on the prevention of marine pollution by dumping of wastes and other matter² shall also apply to the Faroe Islands. As from the said date, the reservation concerning the application of the Convention to the Faroe Islands, made when Denmark deposited its instrument of ratification with the Governments in London, Mexico City, Moscow and Washington on 23 October 1974 (cf. Executive Order No. 15 of 6 February 1976 by the Ministry of Foreign Affairs, *Official Gazette C*), was revoked.

3. GERMANY, FEDERAL REPUBLIC OF

- (a) ACT CONCERNING THE PEACEFUL USE OF NUCLEAR ENERGY AND PROTECTION AGAINST ITS DANGERS (ATOMIC ACT), AS AMENDED ON 31 OCTOBER 1976³

SECTION 1. GENERAL PROVISIONS

Article 1. Purpose of the Act

The purpose of this Act is

1. To promote research into and development and use of nuclear energy for peaceful purposes,
2. To protect lives, health and property from the dangers of nuclear energy and the harmful effects of ionizing radiation, and to provide compensation for damage caused by nuclear energy or ionizing radiation,
3. To safeguard the internal or external security of the Federal

¹ Danish text submitted by the Ministry of Foreign Affairs of Denmark in a note verbale of 11 October 1977. Translation by the Secretariat of the United Nations.

² Reproduced in ST/LEG/SER.B/16, p. 464.

³ *Bundesgesetzblatt* 1976, part I, p. 3054. Amended in pursuance of article 2 of the Fourth Act amending the Atomic Act, of 30 August 1976 (*Bundesgesetzblatt* I, p. 814). Text provided by the Permanent Representative of the Federal Republic of Germany to the United Nations in a note verbale of 2 August 1977. Translation by the Secretariat of the United Nations.

Republic of Germany against risks arising from the application or release of nuclear energy.

4. To ensure that the Federal Republic of Germany fulfils its international obligations in the field of nuclear energy and protection against radiation.

...

SECTION 4. PROVISIONS CONCERNING LIABILITY

Article 25. Liability for nuclear installations

(1) If damage results from a nuclear incident originating in a nuclear installation, the provisions of this Act as well as the provisions of the Paris Convention¹ shall apply with respect to the liability of the operator of the nuclear installation. The same shall apply if damage is caused by ionizing radiation from another source of radiation in the nuclear installation.

(2) If, in the case of carriage of nuclear substances, including storage incidental thereto, the carrier has by contract assumed liability in lieu of the operator of a nuclear installation situated in the territory to which the Act applies, he shall be deemed to be the operator of a nuclear installation as from the time when he assumed liability. The contract must be in writing. The assumption of liability shall be effective only if it was approved by the authority competent under article 4, on the application of the carrier, prior to the commencement of the carriage or of storage incidental thereto. Approval shall be granted only if the carrier is licensed to carry goods in the territory to which this Act applies or has his principal place of business as a forwarding agent in the territory to which this Act applies, and if the operator of the nuclear installation has signified his consent to the authority.

(3) The provisions of article 3 (a) (ii) 2 of the Paris Convention, relating to exemption from liability in case of damage to means of transport, shall not apply.

(4) The provisions of article 9 of the Paris Convention relating to exemption from liability in case of damage caused by a nuclear incident directly due to an act of armed conflict, hostilities, civil war, insurrection or a grave natural disaster of an exceptional character shall not apply. If the damage occurs in another State, the first sentence of this paragraph shall apply only if the other State has, as at the time of the nuclear incident, established in relation to the Federal Republic of Germany provisions equivalent in nature, scope and extent.

(5) The liability of the operator of a nuclear installation shall not be limited by the territorial provisions of article 2 of the Paris Convention.

(6) The operator of a nuclear installation shall not be liable under the Paris Convention if the damage was caused by a nuclear incident involving nuclear substances specified in annex 2 to this Act.

¹ Convention on Third Party Liability in the Field of Nuclear Energy, Paris, 29 July 1960, registered with the Secretariat of the United Nations on 18 December 1974 by the Organization for Economic Co-operation and Development acting on behalf of the parties.

Article 25 (a). Liability for nuclear ships

(1) The provisions of this section shall apply *mutatis mutandis* to the liability of the operator of a nuclear ship, provided that:

1. The provisions of the Paris Convention shall be replaced by the corresponding provisions of the Brussels Convention on the liability of operators of nuclear ships¹ (*Bundesgesetzblatt* 1975 II, p. 977). The Brussels Convention shall be applied in national law without regard to its binding force for the Federal Republic of Germany in international law, in so far as its provisions do not require reciprocity with effect from the entry into force of the Convention.

2. If the damage occurs in another State, article 31, paragraph 1, first sentence, concerning amounts in excess of the maximum liability under the Brussels Convention shall apply only if the law of that State, as at the time of the nuclear incident, contains provisions equivalent in nature, scope and extent, applicable to the Federal Republic of Germany, with respect to the liability of operators of nuclear ships. Article 31, paragraph 1, second and third sentences, article 36, article 38, paragraph 1, and article 40 shall not apply.

3. Article 34 shall apply only to nuclear ships authorized to fly the flag of the Federal Republic. If a nuclear ship is built or is equipped with a reactor in the territory to which this Act applies on behalf of another State or persons of another State, article 34 shall apply until such time as the nuclear ship is registered in the other State or acquires the right to fly the flag of another State. The exemption obligation arising out of article 34 shall be borne to the extent of 75 per cent by the Federal Republic, the rest being borne by the country competent under the terms of article 7 for the licensing of the nuclear ship.

4. In the case of nuclear ships not authorized to fly the flag of the Federal Republic, this section shall apply only where the nuclear damage caused by the nuclear ship occurred in the territory to which this Act applies.

5. Jurisdiction over claims for compensation shall lie with the courts of the State whose flag the nuclear ship is authorized to fly; in cases covered by subparagraph 4, jurisdiction shall also lie with the court of the place in the territory to which this Act applies where the nuclear damage occurred.

(2) In so far as international treaties on liability for nuclear ships contain provisions of a binding character which are at variance with the provisions of this Act, the former shall prevail.

Article 31. Limits of liability

(1) The liability of the operator of a nuclear installation under the Paris Convention in conjunction with article 25, paragraphs 1 to 5, shall

¹ Convention on the Liability of Operators of Nuclear Ships and Additional Protocol, Brussels, 25 May 1962.

be limited to DM 1 billion for each incident causing damage. If the damage occurs in a State party to the Paris Convention for which the supplementary Brussels Convention has entered into force, the first sentence of this paragraph shall apply in respect of the maximum liability in excess of 120 million units of account only if the State party has, at the time of the nuclear incident, established in relation to the Federal Republic of Germany provisions equivalent in nature, scope and extent. If the damage occurs in another State, the second sentence of this paragraph shall apply, provided that the figure of 120 million units of account shall be replaced by 15 million units of account.

(2) In case of material damage, the liability of the person liable under the Paris Convention in conjunction with article 25, paragraphs 1 to 5, or article 26 shall be limited to the ordinary value of the damaged article plus the costs of providing safeguards against the damage of radiation from such article. In case of liability under the Paris Convention in conjunction with article 25, paragraphs 1 to 5, compensation for damage to the means of transport on which the nuclear material was at the time of the nuclear incident shall be payable only when the satisfaction of other claims for compensation within the limit of liability is ensured.

Article 32. Limitation periods

(1) Claims for compensation under this section shall become time-barred three years from the date on which the person entitled to compensation had knowledge or should have had knowledge of the damage and of the person liable for compensation, and in any event 30 years after the date of the incident causing the damage.

(2) In the cases referred to in article 8 (b) of the Paris Convention, the limitation period of 30 years specified in paragraph 1 shall be replaced by a limitation period of 20 years from the date of the theft, loss, jettison or abandonment.

(3) Claims under the Paris Convention against the operator of a nuclear installation in respect of loss of human life or bodily injury which are brought before a court within 10 years of the nuclear incident shall take precedence over claims brought subsequent to the expiry of that period.

(4) If negotiations regarding the amount of compensation to be paid are pending between the person liable for compensation and the person entitled to compensation, the running of the limitation period shall be suspended until such time as either party refuses to continue the negotiations.

(5) In all other respects, the provisions of the Civil Code concerning limitation periods shall apply.

Article 33. Liability of more than one person

(1) Where more than one person is legally liable for compensation to a third party in respect of damage caused by a nuclear incident or otherwise by the effects of a process of nuclear fission or radiation from

radio-active material or by the effects of ionizing radiation from an accelerator, the persons concerned shall be jointly and severally liable to the third party, unless article 5 (d) of the Paris Convention provides otherwise.

(2) In the cases referred to in paragraph 1, the apportionment of liability among the persons liable for compensation shall depend on the circumstances, and in particular on the extent to which the damage was caused predominantly by one of the parties unless article 5 (d) of the Paris Convention provides otherwise. The operator of a nuclear installation shall not, however, be liable for compensation in excess of the maximum amount specified in article 31, paragraph 1.

Article 34. Exoneration from liability

(1) If, as a result of the effects of a nuclear incident, the operator of a nuclear installation situated in the territory to which this Act applies incurs legal liability for compensation under the Paris Convention in conjunction with article 25, paragraphs 1 to 5, or under the law of a foreign State applicable to the damage caused, the operator shall be exonerated from such liability to the extent that it is not covered by, or cannot be met out of, the financial security for such damage. The exoneration shall be limited to the maximum amount specified in article 31, paragraph 1, less an amount representing the extent to which the liability incurred is covered by and can be met out of the financial security.

(2) If, following the occurrence of a nuclear incident, an application for exoneration from liability is anticipated, the operator of the nuclear installation shall:

1. Immediately notify the Federal Minister designated by the Federal Government and the *Land* authorities designated by the *Land* governments;
 2. Immediately inform the competent Federal Minister and the competent *Land* authorities of any claims for compensation which are lodged or preliminary proceedings which are instituted and, if so requested, provide any information which may be necessary in order to verify and legally assess the facts of the case;
 3. Follow the instructions of the competent *Land* authorities in extra-judicial or judicial proceedings relating to any claims to compensation which are lodged;
 4. Refrain from acknowledging or satisfying any claim to compensation without the consent of the competent *Land* authorities, unless it would be manifestly inequitable to withhold such acknowledgement or satisfaction.
- ...

Article 35. Apportionment procedure

(1) If it is anticipated that, in cases in which the legal liabilities for damage resulting from an incident will exceed the limits specified in article 31, paragraph 1, the manner in which the funds available to meet

such legal obligations is to be apportioned, and the procedure to be followed shall be specified by statute and, pending the enactment of such a statute, by regulation.

...

Article 36. Apportionment of the costs of exoneration from liability between the Federation and the Länder

The Federation shall bear 75 per cent of the costs of exoneration from liability as provided in article 34. The remainder of the costs shall be borne by the *Land* in which the nuclear installation where the nuclear incident originated is situated.

Article 37. Recourse in case of exoneration

Where the operator of a nuclear installation has been exonerated from liability for compensation under article 34, recourse may be had against the operator of the nuclear installation for the amount of the payments made if:

1. The operator fails to fulfil his obligations under article 34, paragraph 2 or 3; however, there shall be no recourse if such failure has affected neither the determination of the damage nor the determination or scope of the payments made;
2. The operator or, in the case of a juridical person, the legal representative thereof in the performance of the duties duly assigned to him caused the damage wilfully or through gross negligence;
3. The payments were made because the financial security available was not of the scope or amount officially laid down.

Article 38. Settlement by the Federation

(1) If a person who suffers damage in the territory to which this Act applies as a result of a nuclear incident cannot claim compensation under the law of another State Party to the Paris Convention applicable to the incident causing the damage because:

1. The nuclear incident occurred in the territory of a State not a party to the Paris Convention;
2. The damage was caused by a nuclear incident directly due to an act of armed conflict, hostilities, civil war, insurrection or a grave natural disaster of an exceptional character;
3. The applicable law makes no provision for liability in respect of damage to the means of transport on which the nuclear material was at the time of the occurrence of the nuclear incident;
4. The applicable law makes no provision for liability of the operator where the damage was caused by ionizing radiation from another source in the nuclear installation;

5. The applicable law provides for a shorter limitation period or extinction period than is provided under this Act; or

6. The total amount available for compensation is less than the total amount provided for in article 31, paragraph 1, first sentence, of this Act;

Then the Federation shall make a settlement up to the amount specified in article 31, paragraph 1, first sentence.

(2) The Federation shall likewise make a settlement up to the amount specified in article 31, paragraph 1, first sentence, if the foreign law applicable to damage suffered in the territory to which the Act applies, or the provisions of an international agreement, give the person who suffered the damage an entitlement substantially less in nature, scope and extent than the compensation to which he would be entitled if the provisions of this Act were applied.

(3) Paragraphs 1 and 2 shall not apply to persons suffering damage who are not Germans within the meaning of article 116, paragraph 1, of the Basic Law and are not habitually resident in the territory to which this Act applies, unless the State of residence has, at the time of the nuclear incident, established in relation to the Federal Republic of Germany provisions equivalent in nature, scope and extent.

(4) Claims under paragraphs 1 and 2 shall be submitted to the Federal Administrative Office. They shall become time-barred three years from the date on which the decision concerning compensation rendered under foreign or international law has become final.

...

Article 40. Actions against the operator of a nuclear installation situated in another State party

(1) Where, in accordance with the provisions of the Paris Convention, jurisdiction over complaints for compensation against the operator of a nuclear installation situated in another State party to the Paris Convention lies with a court in the territory to which this Act applies, the liability of the operator shall be determined in accordance with the provisions of this Act.

(2) Notwithstanding the provisions of paragraph 1, the following points shall be determined in accordance with the law of the State party in which the nuclear installation is situated:

1. Who is deemed to be the operator;
2. Whether the liability of the operator for compensation extends also to nuclear damage in a State which is not a party to the Paris Convention;
3. Whether the liability of the operator extends to nuclear damage caused by radiation from another source of radiation in a nuclear installation;

4. Whether, and to what extent, the liability of the operator extends to damage to the means of transport on which the nuclear material was at the time of the nuclear incident;

5. What is the limit of the liability of the operator;

6. After what period of time the claim against the operator shall be time-barred or extinguished;

7. Whether, and to what extent, nuclear damage in the cases referred to in article 9 of the Paris Convention shall be compensable.

...

(b) ACT OF 11 FEBRUARY 1977 CONCERNING THE CONVENTIONS OF 15 FEBRUARY 1972 AND 29 DECEMBER 1972 FOR THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES FROM SHIPS AND AIRCRAFT¹

...

Article 2

(1) In the absence of anything to the contrary in the provisions of this Act or in the regulations issued under article 7, paragraph 2 (1), a permit shall be required for the dumping or discharge of materials into the high seas:

1. By a ship or aircraft authorized to fly the flag or bear the national insignia of the Federal Republic of Germany;

2. By a ship or aircraft on board of which the substances to be dumped or discharged were loaded in the territory to which this Act applies;

3. By a fixed or floating platform or installation used for the exploration and exploitation of the resources of the continental shelf of the Federal Republic of Germany.

(2) A permit may be issued only if:

1. Substances are to be dumped or discharged which cannot be disposed of on land without detriment to the public welfare or can be so disposed of only at excessive cost;

2. There is no reason to fear that dumping or discharge will cause a detrimental change in the quality of the sea-water which creates hazards to human health, harms living resources and marine life, damages recreational amenities or interferes with other legitimate uses of the sea and which cannot be prevented or offset by the imposition of conditions or directives.

¹ *Bundesgesetzblatt*, 1977, part II, p. 165. By article 1 of the law, the Lower House of Parliament of the Federal Republic of Germany (Bundestag) consented to the Conventions indicated in the title. Text provided by the Permanent Representative of the Federal Republic of Germany to the United Nations in a note verbale of 2 August 1977.

(3) There shall, in particular, be deemed to be reason to fear a detrimental change in the quality of the sea-water within the meaning of paragraph 2 (2) where substances listed in annexes I to the Conventions referred to in article 1, or in any binding amended version of those annexes, are to be dumped or discharged.

(4) If a compelling public interest calls for the dumping or discharge of substances into the high seas, a permit may be issued even in the case of substances which can be disposed of on land without detriment to the public welfare or without excessive cost, or in respect of which there is reason to fear that dumping or discharge will cause a detrimental change in the quality of the sea-water within the meaning of paragraph 2 (2).

Article 3

Article 2 shall not apply where, in an emergency, substances are dumped or discharged into the high seas in order to avert a threat to human life or health or to safety of a ship, aircraft or installation within the meaning of article 2, paragraph 1 (3). The captain of the ship or pilot of the aircraft, or the person responsible for the safety of the installation, shall immediately report to the German Hydrographical Institute the dumping or discharge, together with full details of the circumstances and of the nature and quantities of the substances dumped or discharged.

Article 4

For the purposes of this Act, "ships and aircraft" means, in addition to waterborne craft or airborne craft of any type whatsoever, air-cushioned craft and floating craft, whether self-propelled or not.

Article 5

The provisions of this Act shall also apply to the destruction or disposal of wastes in incinerators on the high seas. They shall not apply to the dumping and discharge of substances and materials incidental to or derived from the normal operations of ships, aircraft or installations or their equipment, where the purpose of such operations is not the dumping and discharge of substances and materials, or to ships and aircraft of the Federal armed forces.

...

Article 7

(1) The Federal Minister of Transport shall be empowered, in agreement with the Federal Minister of the Interior and the Federal Minister of Economic Affairs, to give effect by regulation, with the consent of the Bundesrat, to amendments to:

1. The annexes to the Convention referred to in article 1 (1),¹ in accordance with article 18, paragraph 2, of the Convention;

2. The annexes to the Convention referred to in article 1 (2),² in accordance with article XV, paragraph 2, of the Convention,

provided that such amendments are compatible with the purposes of the Conventions.

(2) The Federal Minister of Transport shall be empowered to perform the following acts by regulation, with the consent of the Bundesrat:

1. In agreement with the Federal Minister of the Interior and the Federal Minister of Economic Affairs:

(a) For the purpose of implementing article 19, paragraph 1, of the Convention referred to in article 1 (1) and article III, paragraph 1, of the Convention referred to in article 1 (2), to provide that no permit shall be required for the dumping of certain substances into the high seas;

(b) In the cases referred to in subparagraph (a), to provide that the German Hydrographics Institute shall be notified of the dumping;

(c) For the purpose of implementing the annexes to the Conventions referred to in article 1, to specify the conditions under which certain substances may be dumped or discharged into the high seas;

(d) To lay down the procedure for implementing this Act, and in particular to issue instructions concerning the data required in support of applications, the form of the permit and the recognition of foreign permits;

(e) To provide that proof of the implementation of dumping programmes shall be produced.

2. In agreement with the Federal Minister of Finance, to specify which official acts shall be subject to payment of a fee and to establish fixed schedules or guidelines for such fees. The fee for any official act shall not exceed DM 20,000.

...

Article 8

(1) Any person who, without due authorization, pollutes the high seas or otherwise detrimentally changes the characteristics thereof shall be liable to imprisonment for a term not exceeding two years or to a fine.

(2) If such person commits such acts for a consideration or with intent to enrich himself or another or to injure another, he shall be liable to imprisonment for a term not exceeding three years or to a fine.

(3) Attempts to commit such acts shall be punishable in cases covered by paragraph 2.

¹ Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, 15 February 1972 (reproduced in ST/LEG/SER.B/16, p. 457).

² Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matters, 29 December 1972 (reproduced in ST/LEG/SER.B/16, p. 464).

(4) If in cases covered by paragraph 1, the person committing such acts does so negligently, he shall be liable to imprisonment for a term not exceeding one year or to a fine.

Article 9

(1) Any person who, by an act specified in article 8, paragraph 1, endangers the life or health of another or any article of considerable value being the property of another, shall be liable to imprisonment for a term not exceeding five years or to a fine.

(2) Attempts to commit such acts shall be punishable.

(3) Any person who, in cases covered by paragraph 1:

1. Causes the danger negligently or
2. Acts negligently and causes the danger negligently,

shall be liable to imprisonment for a term not exceeding three years or to a fine.

Article 10

(1) Any person who wilfully or negligently:

1. Dumps or discharges substances into the high seas without a permit, in violation of article 2, paragraph 1,

2. Fails to report the dumping or discharge of substances, in violation of article 3, second sentence, or

3. Violates an order under article 7, paragraph 2 (1) (b) or (e), or an enforceable regulation issued pursuant to such order, where the order provides that a specified offence shall render the offender liable to the fine provided for in this article,

shall be guilty of a contravention.

(2) Contraventions shall be punishable by a fine of not more than DM 100,000.

...

Article 13

This Act shall also apply to *Land Berlin*, in so far as *Land Berlin* declares that it shall so apply. Orders issued pursuant to this Act shall apply to *Land Berlin* in accordance with article 14 of the Third Transitional Act of 4 January 1952 (*Bundesgesetzblatt I*, p. 1).

Article 14

(1) This Act, excluding articles 2 to 12, shall enter into force on the day following its publication. Articles 2 to 12 shall enter into force on the date on which either of the two Conventions referred to in article 1 enters

into force for the Federal Republic of Germany. The instruments of ratification shall not be deposited before the expiration of a period of six months from the date of publication of this Act.

(2) The dates on which the Convention of 15 February 1972, in accordance with its article 23, and the Convention of 29 December 1972, in accordance with its article XIX, enter into force for the Federal Republic of Germany shall be published in the *Bundesgesetzblatt*.

4. ICELAND

[LAW NO. 41 OF 1 JUNE 1979 CONCERNING THE TERRITORIAL SEA, THE ECONOMIC ZONE AND THE CONTINENTAL SHELF, Article 8]¹

5. MALTA

MARINE POLLUTION (PREVENTION AND CONTROL) ACT, 1977²

PART I

Preliminary

1. (1) This Act may be cited as the Marine Pollution (Prevention and Control) Act, 1977.

(2) This Act shall come into force on such date as the Minister may, by notice in the Gazette, appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

2. (1) In this Act, unless the context otherwise requires or it is otherwise expressly provided—

“area of Malta” means Malta and the territorial waters thereof;

“Convention” has the meaning assigned to it by section 29 of this Act, and includes a protocol, agreement or other arrangement;

“Convention ship” means a ship registered in a Convention State;

“Convention State”, in relation to any Convention, means a country the Government of which has been declared by an order made under section 29 of this Act to have accepted such Convention and has not been so declared to have denounced it, and includes any territory to which it has been so declared that the Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend;

“damage” includes loss;

¹ *Supra*, division I, subdivision A, chap. I, 18.

² Act No. XII of 1977; 6 April 1977. Assented to by the President on 12 April 1977. Text provided by the Acting Permanent Representative of Malta to the United Nations in a note dated 31 May 1977. This law repeals Section 7 of the Continental Shelf Act, 1966, reproduced in ST/LEG/SER.B/16, pp. 156-159.

“discharge”, in relation to oil or other pollution or to a mixture containing oil or other pollutant, means any discharge or escape however caused;

“in bulk” means in such quantities as may be prescribed;

“load”, when used in Part VI of this Act, means load for dumping;

“Maltese aircraft” means an aircraft registered in Malta, and includes an aircraft which has been bona fide demised, let or hired out for any period exceeding fourteen days to an individual resident in Malta or a company or other body corporate established under the laws of Malta;

“Maltese marine structure” means a marine structure owned by or leased to an individual resident in Malta or a company or other body corporate established under the laws of Malta;

“Maltese ship” has the same meaning as is assigned to it by section 3 of the Merchant Shipping Act, 1973;

“marine structure” means a platform or other man-made structure at sea;

“master” includes every person, except a pilot, having for the time being command or charge of a ship;

“Minister” means the Minister responsible for shipping and includes any person acting under his authority;

“mixture containing oil” means any mixture of oil with water or with any other substance or with both and any mixture of water or any other substance, or both, with oil;

“mixture containing pollutant” means any mixture of a pollutant with water or with any other substance or with both and any mixture of water or any other substance, or both, with a pollutant;

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

“oil residues” includes any residue or waste consisting of, or arising from, oil or a mixture containing oil;

“outside the territorial waters of Malta” means outside the seaward limits of those waters;

“owner”, in relation to a ship, means the person registered as the owner of the ship, or in the absence of registration the person owning the ship;

“owner or operator”, in relation to an offshore facility or an onshore facility, means any person owning or operating such facility, and in the case of an abandoned facility, the person who owned or operated such facility immediately prior to such abandonment;

“place afloat” includes anything afloat (other than a vessel) if it is anchored or attached to the bed or shore of the sea or of the territorial waters of Malta, and includes anything resting on the bed or shore of the sea or of the territorial waters of Malta;

“place on land” includes any facility of any kind located, in, on or under any land within Malta, other than submerged land;

“pollutant” means any substance which if introduced into the sea or any other waters is liable to create hazards to human health, or to harm living resources or other marine life, or to damage amenities or to interfere with other legitimate uses of the seas or of the waters aforesaid and, without limiting the generality of the foregoing, includes any substance, or any substance that is part of a class of substances, that is prescribed by the Minister, for the purposes of this Act, to be a pollutant;

“port” has the same meaning as is assigned to it by section 2 of the Ports Ordinance, 1962;

“prescribed” means prescribed by regulations, rules, orders or instructions under this Act;

“proper officer” means an officer authorised in that behalf by the Minister or other appropriate authority;

“ship” includes every description of vessel used in navigation not propelled by oars and also includes an air-cushioned vehicle and a floating craft which is attached to a ship;

“territorial waters”, in relation to Malta, means the whole of the sea within the seaward limits of the territorial waters of Malta and includes the waters of any port, or harbour and all other internal waters of Malta within those limits;

“trade effluent” means the solid or liquid waste of any trade, business or manufacture;

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

“vessel” includes any ship or boat or any other description of vessel used in navigation.

(2) In relation to any damage resulting from the discharge of any oil from a ship, references in this Act to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge.

(3) Reference in this Act to the area of any country includes the territorial sea of that country.

(4) Any reference in this Act to the measures reasonably taken after the discharge of oil or other pollutant for the purpose of preventing or reducing any damage caused by contamination resulting from such discharge shall include actions taken to remove the oil from the water and foreshores or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to fish, shellfish, wildlife, and public and private property, foreshores and beaches.

PART II

Criminal Liability for Pollution

3. (1) If any oil or other pollutant to which this section applies or any mixture containing such oil or pollutant is discharged from a Maltese ship into any part of the sea outside the territorial waters of Malta, the owner or master of the ship shall, subject to the provisions of this Act, be guilty of an offence.

(2) This section applies—

(a) to crude oil, fuel oil and lubricating oil; and

(b) to heavy diesel oil, as defined by regulations made by the Minister under this section;

and shall also apply to any other description of oil and to any pollutant which may be specified by regulations made by the Minister, having regard to the provisions of any Convention accepted by the Government of Malta in so far as it relates to the prevention of pollution of the sea.

(3) Regulations made by the Minister may make exceptions from the operation of subsection (1) of this section, either generally or with respect to particular classes of ships, particular descriptions of oil or other pollutants or mixtures containing oil or other pollutants or the discharge of oil or other pollutants or mixtures in particular circumstances or into particular areas of the sea, and may do so either absolutely or subject to any specified conditions.

(4) Any person guilty of an offence under this section shall be liable, on conviction, to a fine (*multa*) of not less than £250 and not more than £50,000.

4. (1) If any oil or other pollutant or any mixture containing oil or other pollutant is discharged into the territorial waters of Malta from any vessel or any place afloat, or from any place on land, or from any apparatus used for transferring oil or other pollutant (whether to or from a place on land or afloat), then, subject to the provisions of this Act the following shall be guilty of an offence, that is to say—

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

(b) if the discharge is from an apparatus used for transferring oil or other pollutant from or to a vessel or takes place while oil or other pollutant is being so transferred, the owner or person in charge of the apparatus;

(c) if the discharge is from any other place, the occupier or other person in charge of such place.

(2) Any person guilty of an offence under this section shall be liable, on conviction, to a fine (*multa*) of not less than £250 and not more than £50,000.

5. (1) If any oil or any mixture containing oil is discharged into any part of the sea—

(a) from a pipe-line; or

(b) as a result of any operation for the exploration of the sea-bed and sub-soil or the exploitation of their natural resources in a designated area,

then, subject to the following provisions of this Act, the owner of the pipe-line or, as the case may be, the person carrying on the operations shall be guilty of an offence unless the discharge was from a place in his occupation and he proves that it was due to the act of a person who was there without his permission (express or implied).

(2) In this section “designated area” means an area for the time being designated by an order made under subsection (3) of section 3 of the Continental Shelf Act, 1966.¹

(3) A person guilty of an offence under this section shall be liable on conviction, to a fine (*multa*) of not less than £250 and not more than £50,000.

6. (1) Where a person is charged with an offence under section 3 of this Act, or is charged with an offence under section 4 of this Act as the owner or master of a vessel, it shall be a defence to prove that the oil, pollutant or mixture was discharged for the purpose of securing the safety of any vessel or of preventing damage to any vessel or cargo, or of saving life, unless the court is satisfied that the discharge of the oil, pollutant or mixture was not necessary for that purpose or was not a reasonable step to take in the circumstances.

(2) Where a person is charged as mentioned in subsection (1) of this section, it shall also be a defence to prove—

(a) that the oil, pollutant or mixture escaped in consequence of damage to the vessel, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing the escape of oil, pollutant or mixture; or

(b) that the oil, pollutant or mixture escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

7. Where a person is charged, in respect of the escape of any oil, pollutant or mixture containing oil or pollutant, with an offence under section 4 or section 5 of this Act—

(a) as the occupier of a place on land; or

¹ Reproduced in ST/LEG/SER.B/16, pp. 156-159.

(b) as a person carrying an operation for the exploration of the sea-bed and sub-soil or the exploitation of their natural resources; or

(c) as the owner of a pipe-line;

it shall be a defence to prove that neither the escape nor any delay in discovering it was due to any want of reasonable care and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it.

PART III

Civil Liability for Pollution

8. (1) Where any oil or other pollutant, or any mixture containing oil or pollutant, is discharged from any vessel (whether carried as part of the cargo of the vessel or otherwise), or from a place afloat or from a place on land—

(a) the owner of the ship; or

(b) the owner or operator of the place afloat or place on land;

shall, subject to the provisions of this Act, be liable—

(c) for any damage caused in the area of Malta by contamination resulting from the discharge; and

(d) for the costs of any measures reasonably taken after the discharge for the purpose of preventing or reducing any such damage in the area of Malta; and

(e) for any damage caused in the area of Malta by any measures so taken.

(2) Where oil or other pollutant, or any mixture containing oil or pollutant, is discharged from two or more vessels and—

(a) a 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 (in solidum) with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(3) For the purposes of this Part of this Act, where more than one discharge results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one; but any measures taken after the first of them shall be deemed to have been taken after the discharge.

(4) Where the owner of a vessel incurs a liability under this section by reason of a discharge, sections 349 and 350 of the Merchant Shipping Act, 1973, shall not apply in relation to that liability.

9. The owner or operator of a ship, or of a place afloat or of a place on land from which oil or other pollutant has been discharged shall not incur any liability under section 8 of this Act if he proves that the discharge—

(a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or

(b) was due wholly to anything done or left undone by another person, not being a servant or agent of the owner or operator, with intent to do damage; or

(c) was, in the case of a discharge from a vessel, due wholly to the negligence or wrongful act of the government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

10. (1) Where—

(a) after a discharge of oil or other pollutant from any vessel, or place afloat, or place on land, measures are reasonably taken for the purpose of preventing or reducing the damage in the area of Malta which may result from the discharge; and

(b) any person incurs, or might but for the measures have incurred, a liability, otherwise than under section 8, for any such damage,

then, whether or not paragraph (d) of subsection (1) of that section applies, such person shall be liable for the cost of the measures taken as aforesaid, whether or not the person taking them does so for the protection of his interests or in the performance of a duty.

11. No action to enforce a claim in respect of a liability incurred under section 8 of this Act shall be entertained by any court in Malta unless the action is commenced not later than three years after the claim arose and not later than six years after the occurrence or first of the occurrences resulting in the discharge by reason of which the liability was incurred.

12. (1) Any vessel to which this section applies shall not enter or leave a port in Malta or arrive at or leave a terminal in the territorial waters of Malta or anchor within the territorial waters of Malta, unless there is in force in respect of the vessel a contract of insurance or other security recognised by the Minister for the purposes of this section.

(2) The Minister shall recognise a contract of insurance or other security for the purposes of this section if such contract or security satisfies the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage done at Brussels on the 29th November 1969,¹ or such requirements as the Minister may by notice in the Gazette specify:

¹ Reproduced in ST/LEG/SER.B/16, pp. 447-454.

Provided that, where the Minister is of the opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his obligations thereunder, or whether the insurance or other security will cover the owners' liability under section 8 of this Act in all circumstances, he may refuse to recognise such insurance or security.

(3) Documentary evidence to the effect that the vessel carries the contract of insurance or other security required by subsection (1) of this section shall, on demand, be produced by the master to any officer of customs or to any proper officer.

(4) If any vessel enters or leaves, or attempts to enter or leave a port or arrives at or attempts to arrive at or leave a terminal or anchors within the territorial waters of Malta in contravention of subsection (1) of this section, the master or the owner of the vessel shall be liable, on conviction, to a fine (*multa*) not exceeding £35,000.

(5) If the master of the vessel fails to comply with any demand made under subsection (3) of this section, he shall be liable, on conviction, to a fine (*multa*) not exceeding £400.

(6) This section shall apply to any vessel carrying in bulk a cargo of oil of a description prescribed by the Minister.

PART IV

Measures to Prevent and Control Pollution

13. (1) For the purpose of preventing or controlling pollution of the sea, the Minister may make regulations requiring Maltese ships to be fitted with such equipment and to comply with such other requirements as may be specified in the regulations.

(2) Without prejudice to the generality of subsection (1) of this section, where any regulations made thereunder require ships to be fitted with equipment of a specified description, the regulations may provide that equipment of that description—

(a) shall not be installed in a ship to which the regulations apply unless it is a type tested and approved in such manner as may be prescribed;

(b) while installed in such a ship, shall not be treated as satisfying the requirements of the regulations unless, at such times as may be prescribed, it is submitted for testing and approval in such manner as may be prescribed, and is so tested and approved.

(3) If in the case of any ship, the provisions of any regulations made under this section which apply to that ship are contravened, the owner or master of the ship shall be guilty of an offence and, on conviction, shall be liable to a fine (*multa*) not exceeding £1,000.

14. (1) The Minister may make regulations requiring record books to be carried in Maltese ships and requiring the master of any such ship to record in the record book carried by her—

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

- (i) the loading of any cargo of oil or other pollutant; or
- (ii) the transfer of any cargo of oil or other pollutant during a voyage; or
- (iii) the discharge of any cargo of oil or other pollutant; or
- (iv) the ballasting of tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks; or
- (v) the separation of oil from water, or from other substances, in any mixture containing oil; or
- (vi) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in the preceding sub-paragraphs; or
- (vii) the disposal of any other residue of oil or other pollutant;

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

(2) The Minister may make regulations requiring the keeping of records relating to the transfer of oil or other pollutant to and from vessels while they are within the territorial waters of Malta, and requiring the master of any such vessel, or such other person as may be prescribed, to keep such records.

(3) The requirements of any regulation made under subsection (2) of this section shall be in addition to the requirements of any regulation made under subsection (1) of this section.

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

(a) prescribe the form of record books or records and the nature of the entries to be made in them;

(b) require the person providing or keeping the books or records to retain them for a prescribed period;

(c) require a person, at the end of the prescribed period, to transmit the books or records to a place or person determined by or under the regulations;

(d) provide for the custody or disposal of books or records after their transmission to such a place or person.

(5) If any ship fails to carry such record book or books as she is required to carry under this section, the owner or master shall be liable, on conviction, to a fine (*multa*) not exceeding £500.

(6) If any person fails to comply with any requirements imposed on him by or under this section, he shall be liable, on conviction, to a fine (*multa*) not exceeding £500.

(7) If any person makes an entry in any record book carried or record kept under this section which is to his knowledge false or misleading in any material particular, he shall be liable, on conviction, to a fine (*multa*) not exceeding £500 or imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(8) In any proceedings under this Act—

(a) any record book carried or record kept in pursuance of regulations made under this section shall, unless the contrary is proved, be sufficient evidence of the facts stated in it;

(b) any copy of an entry in such a record book or record which is certified by the master of the ship in which the book is carried or by the person by whom the record is required to be kept to be a true copy of the entry shall, unless the contrary is proved, be sufficient evidence of the facts stated in the entry;

(c) any document purporting to be a record book carried or record kept in pursuance of regulations made under this section, or purporting to be such certified copy as is mentioned in paragraph (b) of this subsection shall, unless the contrary is proved, be presumed to be such a book, record or copy, as the case may be.

15. (1) If any oil or other pollutant or mixture containing oil or other pollutant—

(a) is discharged from a vessel into the territorial waters of Malta; or

(b) is found to be escaping, or to have escaped, from a vessel into such waters; or

(c) is found to be escaping, or to have escaped, into such waters from a place on land or a place afloat;

the owner or master of the ship, or the occupier of the place on land or of the place afloat, as the case may be, shall forthwith report the occurrence to the Director of Ports indicating under which paragraph of this subsection the occurrence falls and giving such details as may be required by such Director.

(2) If a person fails to make a report as required by subsection (1) of this section he shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding £500.

16. (1) The Minister may make regulations requiring masters of Maltese ships or persons in command of Maltese aircraft to report—

(a) all accidents or casualties which are causing or may cause pollution of the sea by oil or other pollutant; and

(b) the presence, characteristics and extent of oil or other pollutant observed on or in the sea,

to any such authority or organization and in such form and manner as may be prescribed.

(2) If a master of a Maltese ship or a person in command of a Maltese aircraft fails to make a report as required by any regulations made under subsection (1) of this section, he shall be liable, on conviction, to a fine (*multa*) not exceeding £500.

PART V

Intervention in Cases of Oil Pollution Casualties

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

(a) an accident has occurred to or in a ship; and

(b) in the opinion of the Minister, oil or other pollutant from the ship will or may cause pollution on a large scale in Malta or in the waters in or adjacent to Malta up to the seaward limits of territorial waters; and

(c) in the opinion of the Minister, the use of the powers conferred by this section is urgently needed,

and shall be exercisable subject to the provisions of this Act.

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

(a) to the owner of the ship, or to any person in possession of the ship; or

(b) to the master of the ship; or

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

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

(a) that the ship is to be, or is not to be, moved, or is to be moved to a specified place, or is to be removed from a specified area or locality; or

(b) that the ship is not to be moved to a specified place or area, or over a specified route; or

(c) that any oil or other pollutant or other cargo is to be, or is not to be unloaded or discharged; or

(d) that specified salvage measures are to be, or are not to be, taken.

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

(a) take any such action as he has power to require to be taken by a direction under this section;

(b) undertake operations for the sinking or destruction of the ship, or any part of it, of a kind which is not within the means of any person to whom he can give directions;

(c) undertake operations which involve the taking over of control of the ship.

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

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

(7) The provisions of this section and of section 20 of this Act are without prejudice to any rights or powers of the Government of Malta exercisable apart from those sections whether under international law or otherwise.

(8) It is hereby declared that any action taken as respects a ship which is under arrest or as respects the cargo of such a ship, being action duly taken in pursuance of a direction given under this section, or being any action taken under subsection (4) or (5) of this section does not constitute contempt of court.

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

“accident” includes the loss, stranding, abandonment of or damage to a ship; and

“specified” in relation to a direction under this section, means specified by the direction.

18. (1) If any action duly taken by a person in pursuance of a direction given to him under section 17 of this Act, or any action taken under subsection (4) or (5) of that section—

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

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

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

(2) In considering whether subsection (1) of this section applies, account shall be taken of—

(a) the extent and risk of pollution if the action had not been taken;

(b) the likelihood of the action being effective; and

(c) the extent of the damage which has been caused by the action.

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

(4) The Commercial Court shall have jurisdiction to hear and determine any claim arising under this section.

19. (1) If the person to whom a direction is given under section 17 of this Act contravenes, or fails to comply with, any requirement of the direction, he shall be guilty of an offence.

(2) If a person wilfully obstructs any person who is—

(a) acting on behalf of the Minister in connection with the giving or service of a direction under section 17 of this Act;

(b) acting in compliance with a direction under that section; or

(c) acting under subsection (4) or (5) of that section, he shall be guilty of an offence.

(3) In proceedings for an offence under subsection (1) of this section, it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the direction or that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

(4). A person guilty of an offence under this section shall be liable, on conviction, to a fine (*multa*) of not less than £250 and not more than £50,000.

20. (1) The Minister may by order in the Gazette provide that sections 17 to 19 of this Act, together with any other provisions of this Part of this Act stated in the order, shall apply to a ship—

(a) which is not a ship registered in Malta; and

(b) which is for the time being outside the territorial waters of Malta,

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

(2) Except as provided by an order made under subsection (1) of this section, no direction under section 17 of this Act shall apply to a ship which is not registered in Malta and which is for the time being outside the territorial waters of Malta, and no action shall be taken under subsection (4) or (5) of section 17 of this Act as respects any such ship.

PART VI

Dumping at Sea

21. (1) Subject to the provisions of this section, no person shall, except in pursuance of a licence granted under section 22 of this Act and in accordance with the terms of such licence—

(a) dump any substance or article in the territorial waters of Malta; or

(b) dump any substance or article in the sea outside the territorial waters of Malta from a Maltese ship, or a Maltese aircraft or a Maltese marine structure; or

(c) load any substance or article on to a vessel, aircraft or marine structure in Malta or in the territorial waters of Malta for dumping in the sea, whether in the territorial waters of Malta or not; or

(d) cause or permit any substance or article to be dumped or loaded as mentioned in paragraph (a), (b), or (c) above.

(2) Subject to subsections (3), (4) and (5) of this section, substances and articles are dumped in the sea for the purposes of this Part of this Act if they are permanently deposited in the sea from a vehicle, vessel, aircraft or marine structure, or from a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea.

(3) A discharge incidental to or derived from the normal operation of ship, aircraft, vehicle or marine structure or of its equipment shall not constitute dumping for the purposes of this Part of this Act unless the ship, aircraft, vehicle or marine structure in question is constructed or adapted wholly or mainly for the purpose of the disposal of waste or spoil and the discharge takes place as part of its operation for that purpose.

(4) Subject to subsections (5) and (6) of this section, any person who contravenes any of the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not more than £10,000 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(5) It shall be a defence for a person charged with an offence under subsection (4) of this section to prove—

(a) that the substances or articles in question were dumped for the purpose of securing the safety of a vessel, aircraft or marine structure or of saving life; and

(b) that he took steps within a reasonable time to inform the Minister that the dumping had taken place and of the locality and circumstances in which it took place and the nature and quantity of the substance or articles dumped,

unless the court is satisfied that the dumping was not necessary for any of the purposes mentioned above and was not a reasonable step to take in the circumstances.

(6) It shall be a defence for a person charged with an offence under subsection (4) of this section to prove in relation to substances or articles dumped outside the territorial waters of Malta from a Maltese ship or aircraft that they were loaded on to it in a Convention State and that the dumping was authorised by a licence issued by a responsible authority in that State.

22. (1) In determining whether or not to grant a licence, the Minister shall have regard to any Convention on dumping in the sea to which Malta is a party and to the need to protect the marine environment and the living resources which it supports from any adverse consequences of dumping the substances or articles to which the licence, if granted, will relate; and the Minister may include such conditions in a licence as appear to him to be necessary or expedient for the protection of that environment and those resources from any such consequences, and for the purpose of having regard to any Convention as aforesaid.

(2) The Minister may vary or revoke a licence if it appears to him that the licence ought to be varied or revoked because of a breach of a condition included in it or of a change of circumstances relating to the marine environment or the living resources which it supports, including a change in scientific knowledge or in order to give effect to any Convention as aforesaid.

(3) The Minister may require an applicant for a licence—

(a) to pay such fee on applying for it as may be prescribed;

(b) to supply such information and permit such examination and sampling of the substances or articles which he desires to dump, or of similar substances or articles, and to supply such information about the method of dumping which he desires to use, as the Minister may deem necessary or expedient;

(c) to pay such amount, in addition to any fee under paragraph (a) of this subsection, as the Minister may determine towards the expense of any tests which in the opinion of the Minister are necessary to enable him to decide whether a licence should be granted and the conditions which any licence that is granted is to contain, and in particular any expense incurred in connection with any monitoring to determine the effect that dumping may have or has had on the marine environment and the living resources which it supports.

(4) A licence—

(a) shall specify the person to whom it is granted;

(b) shall state whether it is to remain in force until revoked or is to expire at a time specified in the licence;

(c) shall specify the quantity and description of substances or articles to which it relates; and

(d) may make different provisions and conditions as to different descriptions of substances or articles.

(5) The Minister may transfer a licence from the holder to any other persons on the application of that person or of the holder, but shall have power to include additional conditions in a licence on transferring it.

(6) Any person who for the purpose of procuring the grant or transfer of a licence, or in purporting to carry out any duty imposed on him as a condition of a licence, knowingly or recklessly makes a false statement or knowingly or recklessly produces, furnishes, signs or otherwise makes use of a document containing a false statement shall be guilty of an offence and liable on conviction to a fine (*multa*) not exceeding £1,000 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

23. (1) The Minister may charge such public officers or other persons as he may deem proper (in this Part of the Act referred to as “enforcement officers”) with ensuring compliance with this Part of this Act and with the terms and conditions of any licence granted by him under section 22 of this Act.

(2) In the performance of his duty, an enforcement officer—

(a) may at any reasonable time enter any place and board any vehicle, vessel or marine structure, and inspect the same, with or without persons and equipment to assist him in his duties;

(b) may open any container and examine and take samples of any substance or article;

(c) may examine equipment and require any person in charge of it to do anything which appears to the officer to be necessary for facilitating examination;

(d) may require any person to produce any licences, records or other documents which relate to the dumping of substances or articles in the sea and which are in his custody or possession;

(e) may require any person on board a vessel, aircraft or marine structure to produce any records or other documents which relate to it and which are in his custody or possession;

(f) may take copies of any document produced under any of the foregoing paragraphs of this subsection; and

(g) may require the attendance before him of any person he may deem necessary or expedient to examine.

24. The Minister may by order in the Gazette declare—

(a) that any procedure which has been developed for the effective application of a Convention relating to dumping in the sea to which Malta is a party, and which is specified in the order, is an accepted procedure as between Malta and the Government of any Convention State similarly specified; and

(b) that the powers conferred by section 23 of this Act may be exercised for the purpose of the enforcement of that procedure outside the territorial waters of Malta:

(i) in relation to a Maltese ship by a person authorised to enforce it by the Government of that State (hereinafter referred to as a “foreign enforcement officer”); and

(ii) in relation to a ship of that State, by an enforcement officer, and where an order has been made under this section the powers conferred by section 23 of this Act shall be exercisable in accordance with such order.

25. (1) An enforcement officer or a foreign enforcement officer shall not be liable in any civil or criminal proceedings for anything purported to be done in the exercise of the powers conferred on him by this Part of this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(2) Any person who—

(a) without reasonable excuse fails to comply with any requirement imposed, or to answer any question asked, by an enforcement officer or a foreign enforcement officer under this Part of this Act;

(b) without reasonable excuse prevents, or attempts to prevent, any other person from complying with any such requirement or answering any such questions; or

(c) assaults any such officer while exercising any of the powers conferred on him by or by virtue of this Part of this Act or obstructs any such officer in the exercise of any of those powers, shall be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable on conviction in the case of a first offence to a fine (*multa*) not exceeding £200, and in the case of a second or subsequent offence to a fine (*multa*) not exceeding £1,000, in respect of each offence.

26. (1) In any civil or criminal proceedings, a written statement purporting to be a report made by an enforcement officer or a foreign enforcement officer on matters ascertained in the course of exercising his powers under this Part of this Act shall be admissible as evidence to the like extent as oral evidence to the like effect by that officer.

(2) Subsection (1) of this section shall be taken to be in addition to and not derogate from the provisions of any other enactment relating to the reception or admissibility of documentary evidence.

PART VII

General Provisions

27. (1) Without prejudice to the powers conferred by the foregoing provisions of this Act, the Minister may make such regulations, rules or orders, or give such directions, as appear to him to be necessary or expedient for the purpose of carrying into operation any of the provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, the Minister may make regulations—

(a) prescribing substances and classes of substances that are, for the purposes of this Act, pollutants;

(b) respecting the construction of ships carrying oil or other pollutants and the fitting, maintenance, testing and use of electronic and other navigational equipment on such ships, in addition to any other equipment required by any provision of the Merchant Shipping Act, 1973 or of any regulations made thereunder;

(c) respecting the supplies and equipment to be carried by and the fittings and installations required on ships carrying oil or other pollutants for handling the oil or other pollutant and dealing with any discharge thereof;

(d) prescribing procedures to be followed when oil or other pollutants are loaded or unloaded from a ship in the territorial waters of Malta or are transferred on board a ship in such waters;

(e) prescribing the supplies and equipment to be maintained by the operators of offshore and onshore facilities for ships for use in any discharge of oil or other pollutant;

(f) prescribing measures for the protection of the marine environment against pollution by garbage and sewage from ships;

(g) requiring persons carrying on any trade, business or manufacture in Malta to install such equipment and to take such other measures as may

be prescribed for the purpose of preventing or controlling pollution of the sea by any trade effluent;

(h) prescribing quantities of oil or other pollutants for the purposes of the definition of "in bulk" in this Act;

(i) respecting the method of retention of oil waste or other wastes by ships carrying oil or other pollutants;

(j) prescribing anything that is required or authorised by this Act to be prescribed.

(2) Any power conferred on the Minister by this Act to make regulations, rules or orders, or to give directions, shall include power—

(a) to vary, alter or revoke any such regulation, rule, order or direction, without prejudice to the making of a new regulation, rule or order, or the giving of a new direction;

(b) subject to such limitations or other express provision contained in this Act, to provide for fines (*multa* or *ammenda*) not exceeding £10,000 or imprisonment not exceeding six months, or both, and for such other sanction as the Minister may deem appropriate;

(c) to make such transitional or other incidental or supplementary provision as may appear to the Minister to be appropriate.

(3) Regulations, rules and orders made, and directions given, under any of the provisions of this Act may be made or given in the English language only.

28. (1) The Minister may appoint or designate any person as an inspector to report to him, either generally or for specific purposes or on special occasions,—

(a) whether the prohibitions, restrictions and obligations imposed by virtue of this Act have been complied with;

(b) what measures should be or need to be taken to prevent the discharge of oil and other pollutants.

(2) A person appointed or designated under subsection (1) of this section shall have power—

(a) to go on board any vessel and inspect the vessel or any part thereof or any of the machinery, boats, equipment or articles on board or any apparatus for transferring oil or other pollutant, for the purpose of subsection (1) of this section and of ascertaining the circumstances relating to an alleged discharge of oil or other pollutant from the vessel into the waters;

(b) to go on board any vessel which is within the territorial waters of Malta and which he has reasonable grounds to suspect to be bound for a place in Malta, and to conduct such inspections of the vessel as will

enable him to determine whether the vessel complies with any of the provisions of this Act or of the regulations made thereunder that are applicable to the vessel;

(c) to go on board any vessel and test any equipment on board with which the vessel is required to be fitted in pursuance of regulations made under this Act;

(d) to require the production of any record book required to be carried and any records required to be kept in pursuance of regulations made under this Act;

(e) to go on board any Convention ship while the ship is within a port or terminal in Malta, and to require production of any record book, document or certificate required to be carried in accordance with the Convention;

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

(g) to order any ship to proceed out of the territorial waters of Malta by such route and in such manner as he may direct, to remain outside such waters or to proceed to and moor, anchor or remain for a reasonable time specified by him and in a place selected by him that is within the territorial waters of Malta—

- (i) if he suspects, on reasonable grounds, that the ship fails to comply with any of the provisions of this Act or of the regulations made thereunder that is or may be applicable to it; or
- (ii) if, by reason of weather, visibility, sea conditions, the condition of the ship or any of its equipment, or any deficiency in its complement or the nature and condition of its cargo, he is satisfied that such an order is justified to prevent the discharge of oil or other pollutant;

(h) order any ship that he suspects, on reasonable grounds, to be carrying oil or other pollutant, to proceed through the territorial waters of Malta by a route prescribed by him and at a rate of speed not in excess of a rate stated by him; and

(i) where he is informed that a substantial quantity of a pollutant has been discharged in the territorial waters of Malta or has entered such waters, or where on reasonable grounds he is satisfied that a grave and imminent danger of a substantial discharge of a pollutant exists—

- (i) order all ships within a specified area in the territorial waters of Malta to report their condition to him; and
- (ii) order any ship to take part in the clean up of such oil or other pollutant or in any action to control or contain the pollutant.

(3) An inspector exercising any powers conferred by subsection (2) of this section shall not unnecessarily detain or delay the ship from proceeding on any voyage.

(4) Any power conferred by this section to test any equipment on board a ship shall be construed as including a power to require persons on board the ship to carry out such work as may be requisite for the purpose of testing the equipment.

(5) Compensation shall be due and paid to the owner of any ship for services rendered by such a ship in compliance with an order under subparagraph (ii) of paragraph (i) of subsection (2) of this section.

(6) If any person binds or attempts to hinder any inspector from going on board any vessel or otherwise impedes or attempts to impede him in the execution of his duties or functions under this section, or fails without reasonable excuse to comply with any lawful requirement of the inspector, or prevents or attempts to prevent any other person from complying with any such requirement or knowingly makes a false or misleading statement either verbally or in writing, to an inspector, that person shall for each offence be liable to a fine (*multa*) not exceeding £1,000.

29. (1) If the Minister is satisfied—

(a) that the Government of any country has accepted, or has denounced a Convention; or

(b) that a Convention extends, or has ceased to extend, to any territory,

he may, by order in the Gazette, make a declaration to that effect.

(2) In this Act “Convention” means a Convention to which the Government of Malta is a party and which relates, or in so far as it relates, to the prevention of pollution of the sea.

30. (1) The Minister may by order in the Gazette direct that, subject to such exceptions and modifications as may be specified in the order, any provisions of this Act or of any regulations made thereunder, which do not apply to ships registered in countries and territories other than Malta shall apply to such ships at any time when they are in a port in Malta, or are within the territorial waters of Malta while on their way to or from a port in Malta.

(2) An order under subsection (1) of this section shall not be made so as to impose different requirements in respect of ships of different countries or territories; but if the Minister is satisfied, as respects any country or territory, that ships registered there are required by the law of that country or territory to comply with provisions which are substantially the same as, or equally effective with, the requirements imposed by virtue of the order, the Minister may by order in the Gazette direct that those requirements shall not apply to any ship registered in that country or territory if the ship complies with such of those provisions as are applicable thereto under the law of that country or territory.

(3) No provision shall by virtue of an order made under this section apply to any ship as being within a port in Malta, or on her way to or from such a port, if the ship would not have been within the port, or as the case may be, on her way to or from the port, but for stress of weather or any other circumstances which neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

31. (1) Where the Minister has reasonable cause to believe that any oil or other pollutant or any mixture containing oil or other pollutant has been discharged from any ship and the owner of the ship has incurred a liability under section 8 or under section 10 of this Act, the ship may be detained until the owner or insurers of the ship deposit with the Government a sum of money, or furnish such security, which would in the opinion of the Minister be adequate to meet the owner's liability under those sections.

(2) If a ship attempts to leave a port in Malta or the territorial waters of Malta or a terminal within such waters in contravention of section 22 of this Act the ship may be detained.

(3) Where a ship is to be or may be detained any commissioned officer in the military service of Malta, any police officer not below the rank of inspector, any officer of Customs, or a proper officer, may detain the ship; and if the ship after detention, or after service on the master of a notice of detention, proceeds to sea before it is released by competent authority, the master of the ship, and also the owner and any person who sends the ship to sea, if that owner or person is party or privy to the act of sending the ship to sea, shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding £50,000.

(4) Any person authorised under this section to detain a ship may, if he thinks it necessary, place a police or other guard on board and take such other measures as would impede the ship from proceeding to sea.

32. Where the owner or master of a ship has been convicted of an offence under the provisions of this Act and any fine imposed under this Act is not paid at or within the time ordered by the court, the court shall, in addition to any powers for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel, and such court shall, for the purposes of this section, have all the powers as are by law conferred on the Commercial Court.

33. (1) Save as provided in section 18 of this Act, any action taken or omitted to be taken by the Minister under this Act, or by any person acting under the authority of the Minister or otherwise in the execution of this Act, shall not in any circumstances make the Minister, whether personally or in representation of the Government, liable to any action, liability or claim whatsoever.

(2) Any person acting under the authority of the Minister or otherwise in the execution of this Act shall not be personally liable for any

damage or loss resulting from any act or default of such person in carrying out his duties as aforesaid unless it is proved that the act or default was not done *bona fide*.

34. The provisions of this Act shall not apply to, or in relation to, any warship or any ship for the time being used by the Government of Malta or by the Government of any foreign State for any purpose other than commercial purposes.

35. The Minister may exempt any ships or classes of ships from any of the provisions of this Act or of any regulations made thereunder, either absolutely or subject to such conditions as he may deem appropriate.

36. (1) Nothing in this Act shall prejudice any claim, or the enforcement of any claim, a person incurring any liability under this Act may have against another person in respect of that liability.

(2) Nothing in this Act shall affect any restriction imposed by or under any other enactment or shall derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

37. The enactments mentioned in the first column of the Schedule to this Act shall have effect subject to the amendments and repeals specified in relation thereto in the second column of that Schedule.

6. NEW ZEALAND

(a) MARINE POLLUTION ACT 1974¹

Be it enacted by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short title and commencement—(1) This Act may be cited as the Marine Pollution Act 1974.

(2) This Act shall come into force on a date to be fixed by the Governor-General by Order in Council. Different dates may be so fixed in respect of different provisions of this Act.

2. Interpretation—(1) In this Act, unless the context otherwise requires—

...

“Barge” includes a lighter or any similar vessel;

“Continental shelf” has the same meaning as in the Continental Shelf Act 1964;

“Dumping”—

(a) In relation to waste or other matter, means the deliberate disposal into the sea of the waste or other matter; and

¹ Of 6 April 1974. Effective on 1 July 1974 pursuant to Marine Pollution Act Commencement Order 1974, except for sections 37 to 39 which came into force on 31 March 1976 pursuant to the Marine Pollution Act Commencement Order 1976. This Act repeals the Oil in Navigable Waters Act 1965 which is reproduced in ST/LEG/SER.B/15, p. 502. Text provided by the Permanent Representative of New Zealand to the United Nations in a note verbale of 29 June 1977.

(b) In relation to a ship, an aircraft, an offshore installation, a fixed or floating platform, or any other artificial structure which is situated in the sea or on the sea-bed, means a deliberate disposal into the sea or abandonment at sea of the same; but does not include the disposal of waste or other matter incidental to, or derived from, the normal operations of ships, aircraft, offshore installations, platforms, or other man-made structures at sea or their equipment, or the disposal of waste or other matter in the construction of any harbour works as defined in section 2 of the Harbours Act 1950; and "to dump" and "dumped" have corresponding meanings;

...

"Harbourmaster" includes any person specially appointed by a Harbour Board for the purpose of enforcing the provisions of this Act in relation to the harbour; and, in relation to a harbour which has no Harbourmaster, references to the Harbourmaster shall be read as references to the Harbour Board;

"Heavy diesel oil" means marine diesel oil, other than those distillates of which more than 50 per cent by volume distils at a temperature not exceeding 340°C when tested in the manner for the time being prescribed by regulations made under this Act, or, while no such regulations are in force, when tested by ASTM (American Society for Testing and Materials) Standard Method D.86/59;

"Home-trade ship" has the same meaning as in the Shipping and Seamen Act 1952;

"Incident", in relation to pollution damage, means any occurrence, or any series of occurrences having the same origin, which causes the damage;

"Internal waters of New Zealand" means—

(a) Harbours, estuaries, and other areas of the sea that are on the landward side of the baseline of the territorial sea of New Zealand; and

(b) Rivers and other inland waters of New Zealand that are navigable by ships;

"Marine life" means any species of the plant or animal kingdoms which at any time of the life of the species inhabits the sea or foreshore; and includes any specimen of the species whether alive or dead, and any part of any specimen, and the seed, spores, eggs, spawn, young, fry, and offspring of the species;

"Master" includes any person (not being a pilot) having command of or being in charge of any ship;

"Mile" means the international nautical mile of 1,852 metres;

"Minister" means the Minister of Transport;

“Natural resources” has the same meaning as in the Continental Shelf Act 1964;

...

“New Zealand waters” means the internal waters of New Zealand and the territorial sea of New Zealand;

“Offshore installation” includes—

(a) Any installation or device or anything (whether permanent or temporary) constructed, erected, placed, or used in or on or above the bed and subsoil of any New Zealand waters; and

(b) Any such installation or device (whether permanent or temporary) constructed, erected, placed, or used in or on or above the sea-bed and subsoil of the continental shelf in connexion with the exploration of the sea-bed and subsoil and the exploitation of the natural resources thereof; and

(c) Anything afloat (other than a ship) if it is anchored or attached to the bed or shore of any New Zealand waters, or if it is anchored or attached to the bed of the waters over the continental shelf in connexion with the exploration and exploitation of the natural resources thereof; and

(d) Any structure connecting an offshore installation with any other offshore installation; but does not include a pipeline;

“Oil” means oil of description in any form; and, without limiting the generality of the foregoing provisions of this definition, includes spirits and other distillates produced from oil of any description; and also includes coal tar, bitumen, bitumen emulsions, fuel oil, sludge, oil refuse, and oil mixed with wastes; and references to oil shall be construed as a reference to mixtures of oil with water or with any other substance;

Provided that, in relation to any ship to which section 32 of this Act applies, the term “oil” has the meaning defined in subsection (9) of that section;

“Oil residues” means any waste material consisting of, or arising from, oil or a mixture containing oil;

“Outside New Zealand waters” means outside the seaward limits of the territorial sea of New Zealand;

“Owner”—

(a) In relation to any ship (other than a ship to which section 32 of this Act applies), includes—

(i) Any person interested in or in possession of the ship; and in Parts I, II, and III and section 30 of this Act, includes any salvor in possession of the ship, and any servant or agent of any salvor in possession of the ship; and

- (ii) Any charterer, manager, or operator of the ship, or any other person for the time being responsible for the navigation or management of the ship; and
 - (iii) Any agent in New Zealand of the owner, charterer, manager, or operator, as the case may be; and
 - (iv) Any agent for the ship;
- (b) In relation to any ship to which section 32 of this Act applies, has the meaning defined in subsection (9) of that section;
- (c) In relation to an offshore installation, includes—
- (i) The person having any right or privilege or licence to explore the sea-bed and subsoil and to exploit the natural resources thereof in connexion with which the offshore installation is or has been or is to be used; and
 - (ii) The agent or servant of the owner or the manager or licensee for the time being of the installation, or the person in charge of any operations connected therewith;

“Pipeline” means a pipeline used for the conveyance of gas (including natural gas), oil, water, or any other mineral, liquid, or substance, or any mixture of the same; and includes all fittings, pumps, tanks, appurtenances, and appliances connected to a pipeline;

“Place on land” means any place on dry land or any place connected with dry land; and the term “occupier”, in relation to a place on land which has no other occupier, means the owner thereof, and, in relation to a railway wagon or road vehicles, means the person in charge of the wagon or vehicle and not the occupier of the land on which the wagon or vehicle stands;

“Pollutant” means any substance, or any substance that is part of a class of substances, declared by the Governor-General pursuant to subsection (2) of this section to be a pollutant for the purposes of this Act; and includes any water contaminated by any such substances; and a reference to any pollutant shall be construed as a reference to mixtures of a pollutant with water or with any other substance;

“Pollution damage” means damage of any kind whatsoever occurring in New Zealand or in New Zealand waters which is attributable to the discharge or escape of oil, or (except in the case of any provision relating only to damage attributable to oil) any pollutant into the sea, whether New Zealand waters or not; and includes the costs of reasonable preventive measures taken in New Zealand or in New Zealand waters or outside those waters to prevent or reduce pollution damage and any further loss or damage occurring as a result of such measures; and in Part V of this Act also includes expenses reasonably incurred and sacrifices reasonably made by the owner of a ship voluntarily to prevent or reduce pollution damage; and for the purposes of this definition the term “damage” includes loss;

“Reception facilities”, in relation to any harbour, means facilities for enabling ships using the harbour to discharge or deposit oil residues or residues from any pollutant;

“Sea” means all areas of the sea (whether New Zealand waters or not); and includes any estuary or arm of the sea;

“Ship” means every description of vessel (including any boat, barge, craft, or other contrivance) used in or on or under the sea, without regard to the method of or the lack of propulsion;

“Shipping casualty” means a collision of ships, the loss, stranding or abandonment of any ship, or any other incident occurring outside any ship or on board any ship or to any ship resulting in material damage or the risk of material damage to any ship or cargo or both;

“Special permit” means a permit to dump waste or other matter issued pursuant to section 22 of this Act;

“Territorial sea of New Zealand” has the same meaning as in the Territorial Sea and Fishing Zone Act 1965;

...

“Waste or other matter” means material and substances of any kind, form, or description; and, without limiting the generality of the foregoing provisions of this definition, includes oil and any substance (whether or not it has been declared to be a pollutant pursuant to subsection (2) of this section).

(2) The Governor-General may from time to time, by Order in Council, declare to be a pollutant for the purposes of this Act or of any provision of this Act any substance, or any class of substances, other than oil, which, in the opinion of the Governor-General, when added to any waters has the effect of contaminating those waters so as to make the waters unclean, noxious, or impure, or as to be detrimental to the health, safety, or welfare of any person, or as to be poisonous or harmful to marine life of any description in any waters.

(3) Any reference in this Act to the discharge or escape of oil or any pollutant, or to any oil or pollutant being discharged from any ship or offshore installation or place or thing or pipeline or apparatus, or as the result of any of the operations mentioned in section 5 of this Act (except where the reference is to its being discharged for a specified purpose) includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, or emptying of that oil or pollutant, as the case may be, howsoever it is caused and howsoever it occurs; but does not include dumping.

(4) For the purposes of any provision of this Act relating to the discharge or escape of oil or a mixture containing oil from a ship, any floating craft (other than a ship) which is attached to a ship shall be treated as part of the ship.

...

PART I

Prevention of pollution

3. Discharge of oil or pollutants into New Zealand waters—(1) If any oil or pollutant is discharged or escapes into New Zealand waters from any ship, or from any place on land, or from any apparatus used for transferring oil or a pollutant from or to any ship (whether to or from a place on land or to or from another ship), or from an offshore installation, or as the result of any operations for the exploration of the sea-bed or subsoil or the exploitation of the natural resources thereof, or from a pipeline, then, subject to the provisions of this Act,

(a) If the discharge or escape is from a ship, the owner or master of the ship; or

(b) If the discharge or escape is from a place on land, the occupier of that place; or

(c) If the discharge or escape occurs during the course of transferring oil or a pollutant to or from a ship, the owner or master of the ship, or, where the discharge or escape is from any apparatus used for transferring oil or a pollutant, the person in charge of the apparatus; or

(d) If the discharge or escape is from an offshore installation or as the result of any operations for the exploration of the sea-bed and subsoil or the exploitation of the natural resources thereof, the owner or the person carrying on the operations or the person in charge of the operations; or

(e) If the discharge or escape is from a pipeline, the owner of the pipeline—

commits an offence under this section.

(2) Without limiting the liability for an offence under this section of any person mentioned in subsection (1) of this section, where that person is not the person whose act or omission caused the discharge or escape, then, whether or not that first-mentioned person establishes any of the defences mentioned in subsection (3) or subsection (5) of section 6 of this Act, the person whose act or omission caused the escape also commits an offence under this section.

(3) Regulations made under section 68 of this Act may make exceptions from the operation of subsection (1) of this section, either absolutely or subject to any prescribed conditions, and either generally or specifically or in relation to particular descriptions of oil or pollutants or to the discharge or escape of oil or pollutants in particular circumstances, or in relation to any area of the sea specified by the regulations.

4. Discharge of oil or pollutant into waters outside New Zealand waters—(1) If any oil or pollutant to which this section applies is discharged or escapes from a New Zealand ship or a home-trade ship into any part of

the sea outside New Zealand waters, then, subject to the provisions of this Act, the owner or master of the ship commits an offence under this section.

(2) This section applies to—

(a) Crude oil, fuel oil, lubricating oil, and heavy diesel oil;

(b) Any other description of oil to which this section is for the time being declared to apply by regulations made under this Act, having regard to the provisions of any International Convention, or to the persistent character of oil of that description or to the likelihood that it would cause pollution or that it would be harmful to marine life;

(c) Any pollutant to which this section is for the time being declared to apply by regulations made under this Act, having regard to the provisions of any International Convention, or to the character and nature of the pollutant or to the likelihood that it would cause pollution or that it would be harmful to marine life.

(3) Regulations made under section 68 of this Act may make exceptions from the operation of subsection (1) of this section, either absolutely or subject to any prescribed conditions, and either generally or in relation to particular classes of ship or to any specified ship, or in relation to particular descriptions of oil or pollutants or to the discharge or escape of oil or pollutants in particular circumstances, or in relation to any area of the sea specified in the regulations.

5. Discharge of oil or pollutant as the result of exploration or exploitation of the sea-bed—(1) If any oil or pollutant is discharged or escapes into any part of the sea—

(a) From a pipeline within New Zealand waters or on the continental shelf; or

(b) Otherwise than from a ship, as a result of any operations for the exploration of the sea-bed or subsoil of the continental shelf or the exploitation of the natural resources thereof, or from an offshore installation—

the owner of the pipeline, or, as the case may be, the person carrying on the operations, or the owner of the offshore installation, commits an offence under this section.

(2) Without limiting the liability for an offence under this section of any person mentioned in subsection (1) of this section, where that person is not the person whose act or omission caused the discharge or escape, then, whether or not that first-mentioned person establishes any of the defences mentioned in subsection (3) or subsection (5) of section 6 of this Act, the person whose act or omission caused the escape also commits an offence under this section.

6. Special defences—(1) Where a person is charged with an offence under section 3 or section 5 of this Act, or is charged with an offence under section 4 of this Act as the owner or master of a ship, it shall be a defence

to prove that the oil or pollutant, as the case may be, in respect of which the offence is alleged to have been committed was discharged for the purpose of securing the safety of any ship or offshore installation, or of preventing damage to any ship or cargo, or of saving life:

Provided that a defence under this subsection shall not have effect if the Court is satisfied that the discharge of the oil or pollutant, as the case may be, was not necessary for the purpose alleged in the defence or was not a reasonable step to take in the circumstances.

(2) Where a person is charged as mentioned in subsection (1) of this section, it shall also be a defence to prove that the oil or pollutant escaped in consequence of major structural damage—

(a) The ship; or

(b) Any offshore installation, or any apparatus other than a ship used in or for any operations for the exploration of the sea-bed or subsoil or the exploitation of the natural resources thereof,

which occurred without the negligence or deliberate act of that person:

Provided that it shall not be a defence under this subsection, unless as soon as possible in the circumstances after the damage occurred all reasonable steps were taken to prevent or, if it could not be prevented, to stop or reduce the escape of the oil or pollutant.

(3) It shall be a defence for a person charged with an offence mentioned in subsection (1) of this section in the case of a discharge or escape from a place on land of which he is the occupier, to prove that the discharge or escape was caused by the act or omission of a person who was in that place without the permission (express or implied) of the occupier:

Provided that a defence under this subsection shall not have effect if the Court is satisfied that the person charged—

(a) Had not taken all reasonable steps to prevent the person who actually caused the discharge or escape from obtaining access to the place; and

(b) Had not complied with the requirements of any other Act applying to that place.

(4) Where a person is charged with an offence under section 3 of this Act as the occupier of a place on land, or as the person in charge of any apparatus, from which oil or a pollutant has been discharged or has escaped, it shall be a defence to prove that the discharge or escape was not due to the want of reasonable care, and that immediately the discharge or escape was discovered all reasonable steps were taken to stop or reduce it.

(5) Where any oil or pollutant is discharged or escapes in consequence of the exercise by any Minister of the Crown or any Harbour Board or any Receiver of Wreck of any power conferred on him or it by or under section 208 of the Harbours Act 1950 or section 353 of the

Shipping and Seamen Act 1952, and apart from this subsection the Minister or Board or Receiver exercising the power or a person employed by or acting on his or its behalf would commit an offence under section 3 or section 4 of this Act in respect of that discharge or escape, the Minister or Board or Receiver or person shall not be convicted of that offence if it is shown that he or it took all practicable steps to prevent, stop, or reduce the discharge.

7. Equipment in ships to prevent pollution—(1) For the purpose of preventing or reducing discharges or escapes of oil or pollutants into the sea, regulations may be made under section 68 of this Act requiring New Zealand ships, home-trade ships, and any other ships while they are within New Zealand waters, to be fitted with such equipment, and to comply with such requirements, as may be prescribed.

(2) Without prejudice to the generality of subsection (1) of this section, where any regulations made pursuant to that subsection require ships to be fitted with equipment of a prescribed description, the regulations may provide that equipment of that description—

(a) Shall not be installed in a ship to which the regulations apply, unless the equipment is of a type tested and approved by a person appointed by the Minister; or

(b) While installed in such a ship, shall not be regarded as satisfying the requirements of the regulations unless, at such times as may be specified in the regulations, the equipment is submitted for testing and is approved by a person so appointed.

(3) The Minister may appoint persons to carry out tests for the purposes of any regulations made pursuant to this section, and, in respect of the carrying out of any such tests, may charge such fees as may be prescribed by the regulations.

(4) Every Surveyor of Ships appointed under section 13 of the Shipping and Seamen Act 1952 shall be deemed to be a person appointed by the Minister to carry out tests for the purposes of any regulations made pursuant to this section, so far as they relate to tests required in accordance with paragraph (b) of subsection (2) of this section.

(5) If in the case of any ship the provisions of any regulations made pursuant to this section which apply to that ship are contravened, the owner or master of the ship commits an offence under this section.

8. Equipment in ships to deal with pollution—(1) For the purpose of cleaning up or removing or dispersing any oil or pollutant in or on the sea, regulations may be made under section 68 of this Act requiring New Zealand ships, home-trade ships, and any other ships while they are within New Zealand waters, to carry such equipment and to comply with such requirements, as may be prescribed.

(2) Without prejudice to the generality of subsection (1) of this section, where any regulations made pursuant to that subsection require

ships to carry equipment of a prescribed description, the regulations may provide that equipment of that description—

(a) Shall not be installed in a ship to which the regulations apply, unless the equipment is of a type tested and approved by a person appointed by the Minister; and

(b) While carried on board such a ship, shall not be regarded as satisfying the requirements of the regulations unless, at such times as may be specified in the regulations, the equipment is submitted for testing and is approved by a person so appointed.

(3) The Minister may appoint persons to carry out tests for the purposes of any regulations made pursuant to this section, and, in respect of the carrying out of any such tests, may charge such fees as may be prescribed by the regulations.

(4) Every Surveyor of Ships appointed under section 13 of the Shipping and Seamen Act 1952 shall be deemed to be a person appointed by the Minister to carry out tests for the purposes of any regulations made pursuant to this section, so far as they relate to tests required in accordance with paragraph (b) of subsection (2) of this section.

(5) If in the case of any ship the provisions of any regulations made pursuant to this section which apply to that ship are contravened, the owner or master of the ship commits an offence under this section.

9. Equipment for pipelines and offshore installations—(1) Regulations may be made under section 68 of this Act requiring the owner of a pipeline in New Zealand waters or on the continental shelf or the owner or occupier of a place on land, or the owner of an offshore installation, or the person carrying on operations within New Zealand waters or on the continental shelf or in waters above the continental shelf for the exploration of the sea-bed and subsoil and the exploitation of the natural resources thereof, to install or carry on board or to have readily available such equipment, and to comply with such requirements, as may be prescribed.

(a) For the purpose of reducing or preventing the discharge or escape of oil or any pollutant into the sea or on to the sea-bed; and

(b) For the purpose of cleaning up, or removing, or dispersing any oil or pollutant that is discharged or escapes into the sea or on to the sea-bed.

(2) Without prejudice to the generality of subsection (1) of this section, where any regulations made pursuant to that subsection require equipment of a prescribed description to be installed, carried on board, or readily available, the regulations may provide that equipment of that description—

(a) Shall not be used, unless it is of a type tested and approved by a person appointed by the Minister; and

(b) While installed, carried on board, or available, shall not be regarded as satisfying the requirements of the regulations unless, at such

times as may be specified in the regulations, the equipment is submitted for testing and is approved by a person so appointed.

(3) The Minister may appoint persons to carry out tests for the purposes of any regulations made pursuant to this section, and, in respect of the carrying out of any such tests, may charge such fees as may be prescribed by the regulations.

(4) Every Surveyor of Ships appointed under section 13 of the Shipping and Seamen Act 1952 shall be deemed to be a person appointed by the Minister to carry out tests for the purposes of any regulations made pursuant to this section, so far as they relate to tests required in accordance with paragraph (b) of subsection (2) of this section.

(5) If the provisions of any regulations made pursuant to this section are contravened, the owner or occupier, as the case may be, commits an offence under this section.

10. Penalties—Every person who commits an offence under any of the provisions of sections 3 to 9 of this Act—

(a) Is liable on summary conviction to a fine not exceeding \$50,000; and

(b) Is also liable to pay such amount as the Court may assess in respect of the expenses and costs that have been incurred or will be incurred in removing or cleaning up or dispersing any oil or pollutant to which the offence relates from any New Zealand waters or from any foreshore or harbour works in New Zealand.

11. Records—(1) Regulations may be made under section 68 of this Act requiring the master of a New Zealand ship or home-trade ship to carry a record book, whether as part of the ship's official log book or as a separate record book, and to keep in that book records of—

(a) Any occasion on which oil is found to be escaping or to have escaped or is discharged from the ship; and

(b) Any occasion on which oil is discharged from the ship for the purpose of securing the safety of any ship or of preventing damage to any ship or cargo or of saving life; and

(c) Any occasion on which oil is found to be escaping or to have escaped, or is discharged, from the ship in consequence of damage to the ship, or by reason of leakage; and

(d) The carrying out, on board or in connexion with the ship, of such operations as may be prescribed, being operations relating to—

(i) The ballasting and cleaning of oil tanks (whether cargo or bunker-fuel tanks) and the discharge of ballast or cleaning water or any other substance from any such tanks; or

(ii) The separation of oil from water, or from other substances, in any mixture containing oil; or

- (iii) The loading of oil cargo; or
- (iv) The transfer of oil cargo during a voyage to or from a ship, or between tanks within a ship; or
- (v) The discharge of oil cargo; or
- (vi) The discharge or other disposal of any oil, or water, or any other substance, arising from operations relating to any of the matters specified in subparagraphs (i) to (v) of this paragraph; or
- (vii) The discharge or disposal of any other oil residues or sediments or of any other mixture containing oil.

(2) Regulations may be made under section 68 of this Act requiring the keeping of records of all or any of the matters specified in subsection (1) of this section while a ship is within New Zealand waters or requiring the keeping of records relating to the transfer of oil to and from ships while within New Zealand waters. In the case of ships in respect of which requirements are imposed pursuant to subsection (1) of this section any requirements imposed pursuant to this section shall be in addition to those imposed pursuant to the said subsection (1).

(3) Regulations made under section 68 of this Act may require the person in charge (other than the master) of a barge, dracone, or other like craft or the owner of or person in charge of any offshore installation or of any apparatus being used for operations relating to the exploration of the sea-bed and subsoil of New Zealand waters or the continental shelf and the exploitation of the natural resources thereof to comply with each of the matters specified in subsection (1) of this section, as far as applicable and with the necessary modifications, as are specified in the regulations.

(4) Regulations made under section 68 of this Act may require the master of a New Zealand ship or home-trade ship, or the person in charge of a barge, dracone, or other like craft, or the owner or person in charge of an offshore installation or any apparatus, or the master of any ship while that ship is in New Zealand waters, to carry thereon a record book, whether as part of an official log book or as a separate record book, and to keep in that book records relating to the discharge or escape of pollutants, the loading or unloading of pollutants, the transfer of pollutants, and any other operations in respect of pollutants that may be prescribed.

(5) The provisions of subsection (1) of this section, as far as they are applicable and with the necessary modifications, shall apply with respect to the making of regulations pursuant to subsection (4) of this section.

(6) Where by virtue of regulations made pursuant to this section records are required to be kept, the regulations may—

- (a) Prescribe the manner and form of the records to be kept; and

(b) The nature of the entries to be made; and

(c) The period of time for which the records must be kept by the person keeping them; and

(d) The transfer of custody of the records at the end of that period of time; and

(e) The ultimate disposal of the records.

(7) Every person commits an offence who fails to comply with any requirement imposed by or under this section, and is liable on summary conviction to a fine not exceeding \$3,000.

(8) Every person commits an offence who makes an entry in any records kept pursuant to regulations made pursuant to this section which is to his knowledge false or misleading in any material particular, and is liable on summary conviction to imprisonment for a term not exceeding one year, or to a fine not exceeding \$3,000, or to both.

(9) In any proceedings under this part of this Act—

(a) Any records kept pursuant to regulations made pursuant to this section shall be admissible as evidence of the facts stated in those records;

(b) Any copy of an entry in any such records, which is certified by the person by whom the records are required to be kept to be a true copy of the entry, shall be admissible as evidence of the facts stated in the entry;

(c) Any document purporting to be records to which paragraph (a) of this subsection applies, or purporting to be such a certified copy as is mentioned in paragraph (b) of this subsection, shall, unless the contrary is proved, be presumed to be such record, or such a certified copy, as the case may be.

...

14. Restrictions on transfer of oil or pollutants—(1) No oil or pollutant shall be transferred to or from a ship in any harbour in New Zealand, unless the requisite notice has been given in accordance with this section:

Provided that this subsection shall not apply to the transfer of oil or pollutant at the request or direction of a fire brigade.

...

(4) If any oil or pollutant is transferred to or from a ship in contravention of this section, the master of the ship, and, if the oil or pollutant is transferred from or to a place on land, the occupier of that place, commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.

...

15. Master of overseas ship carrying oil to notify Harbourmaster—

(1) The master of every ship arriving in New Zealand from overseas carrying oil in bulk as cargo or carrying a pollutant in bulk as cargo shall—

(a) Send by radio to the Harbourmaster at the first port of call in New Zealand, so as to be delivered to him not later than 12 hours before the arrival of the ship thereat, notice of the fact that oil or a pollutant is being carried as aforesaid and specifying the nature of the oil or pollutant carried and the quantity carried; and

(b) Before proceeding from any port in New Zealand to any other such port, send a similar notice to the Harbourmaster at the last-mentioned port by such means as will ensure its being delivered as least 12 hours before the arrival of the ship.

(2) The master of any ship proceeding to any port in New Zealand from any other port in New Zealand carrying oil in bulk or a pollutant in bulk, as cargo, whether or not the oil or pollutant or any part thereof is to be discharged at the first-mentioned port, shall send to the Harbourmaster at the first-mentioned port, by such means as will ensure its being delivered at least 12 hours before the arrival of the ship, a notice of the fact that oil or a pollutant is being carried as aforesaid and specifying the nature of the oil or pollutant carried and the quantity carried.

(3) If the master of any ship fails to comply with the requirements of this section, he commits an offence, and is liable on summary conviction to a fine not exceeding \$3,000.

(4) In any proceedings for an offence against this section it shall be a good defence to prove that notice to the effect required by this section was given to the Harbourmaster by the owner of the ship, or by any other person, within the time limited by this section.

16. Duty to report discharges of oil or pollutants—(1) If any oil or pollutant is discharged or escapes into any part of the sea from a New Zealand ship or a home-trade ship, or from a place on land, or from a pipeline in New Zealand waters or on the continental shelf, or from an offshore installation, or as the result of operations for the exploration of the sea-bed and subsoil of any New Zealand waters or the continental shelf or the exploitation of the natural resources thereof, the owner or master of the ship, or the occupier of the place on land, or the owner of the pipeline, or the owner of the offshore installation, or the person carrying on the operations, as the case may be, shall immediately, by the quickest means available to him, by radio if possible, report the occurrence to the Harbourmaster in the case of a discharge or escape into a harbour and to the Minister in the case of a discharge or escape otherwise than into a harbour.

(2) If any oil or pollutant is discharged or escapes into New Zealand waters from a ship other than a New Zealand ship or home-trade ship, the owner or master of the ship shall immediately, by the quickest means avail-

able to him, report the occurrence to the Harbourmaster in the case of any discharge or escape into a harbour, and to the Minister in the case of any discharge or escape otherwise than into a harbour.

...

(4) If—

(a) A New Zealand ship or home-trade ship becomes stranded or is abandoned anywhere (whether in New Zealand waters or not); or

(b) A ship (other than a New Zealand ship or home-trade ship) becomes stranded or is abandoned in New Zealand waters,

the owner shall immediately, by the quickest means available to him, by radio if possible, report the occurrence to the Minister, giving full details of the damage to the ship, the state of the cargo, a complete list of all oil and all pollutants carried (including the description and quantity of each type of oil or pollutants, as the case may be, carried), and a statement or estimate of the quantity of each type of oil or pollutant that has been discharged or escaped or that may be discharged or may escape.

(5) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, who—

(a) Fails to comply with any provision of this section; or

(b) Makes a report containing any information which to his knowledge is false or misleading in any material particular.

...

18. Shipping traffic controls—(1) For the purpose of ensuring the safety of navigation in New Zealand waters and in adjacent waters, regulations may be made under section 68 of this Act, establishing any or all of the following:

(a) Shipping traffic lanes;

(b) Shipping traffic controls;

(c) Shipping traffic control zones;

(d) Shipping traffic control centres.

(2) Regulations made pursuant to subsection (1) of this section may require ships to comply with such requirements as may be prescribed, and may prescribe the functions of any shipping control centre.

(3) Without limiting the generality of subsection (2) of this section, regulations made pursuant to subsection (1) of this section may provide that any ship navigating in any shipping traffic lane or shipping traffic control zone, or which is subject to any other shipping traffic control established pursuant to the regulations shall—

(a) Carry an authorized pilot; or

(b) Maintain a radio listening watch on any frequency prescribed and for such period or periods of time as may be prescribed; or

(c) Report to any shipping traffic control centre at such times and on the happening of such events as may be prescribed; or

(d) Obtain a clearance to enter or to leave any shipping traffic lane or shipping traffic control zone; or

(e) While in a shipping traffic lane or a shipping traffic control zone, comply with any directions given by a shipping traffic control centre or by a Harbourmaster or by a pilot or by the Minister by any person authorized by him.

(4) Regulations made pursuant to subsection (1) of this section may make exceptions from the operation of the regulations, either absolutely or subject to any prescribed conditions, and either generally or with respect to particular classes of ships or to particular ships.

(5) Where a ship fails to comply with the provisions of any regulations made pursuant to this section, the owner or the master commits an offence, and is liable on summary conviction to a fine not exceeding \$20,000.

19. Enforcement of Convention relating to oil pollution—(1) Regulations made under section 68 of this Act may empower such persons as may be designated by or under the regulations to go on board any ship to which the International Convention for the Prevention of Pollution of the Sea by Oil 1954 as amended in 1962 applies while the ship is within New Zealand waters, and to require production of any records required to be kept in accordance with that Convention.

...

PART II

Dumping of wastes into the sea

20. Application of this Part—This Part of this Act shall apply to—

(a) All ships and aircraft which in New Zealand or in New Zealand waters take on board waste or other matter for the purpose of dumping the same at sea;

(b) All ships and aircraft which dump waste or other matter in New Zealand waters;

(c) All ships (being New Zealand ships or home-trade ships) which dump waste or other matter into the sea;

(d) All New Zealand aircraft which dump waste or other matter into the sea;

(e) Every offshore installation or fixed or floating platform or other artificial structure which is situated in the sea or on the sea-bed and is under New Zealand jurisdiction;

(f) All ships and aircraft dumped into New Zealand waters, and all New Zealand ships and New Zealand aircraft dumped into the sea.

21. Offence to dump waste or other matter—(1) If—

(a) Any waste or other matter is dumped into New Zealand waters, without a special permit, from any ship or aircraft to which this Part applies; or

(b) Any waste or other matter is discharged into the sea, without a special permit, from any New Zealand ship or home-trade ship or New Zealand aircraft or from any offshore installation or fixed or floating platform or other artificial structure to which this Part applies; or

(c) A ship or aircraft is dumped into New Zealand waters without a special permit; or

(d) An offshore installation or fixed or floating platform or other artificial structure to which this Part applies is dumped into the sea without a special permit; or

(e) Any waste or other matter is taken on board any ship or aircraft in New Zealand or in New Zealand waters without a special permit and for the purpose of dumping,

then, subject to the provisions of this Part of this Act,

(f) If the dumping is from a ship or if a ship is dumped, the master or the owner of the ship; or

(g) If the dumping is from an aircraft, or if an aircraft is dumped, the pilot or the owner of the aircraft or the person in possession of the aircraft; or

(h) If the dumping is from an offshore installation or if an offshore installation is dumped, the owner or the person carrying on operations or the person in charge of the operations; or

(i) If the dumping is from a fixed or floating platform or other artificial structure situated in the sea or on the sea-bed, or if a fixed or floating platform or other artificial structure is dumped, the person in possession of the platform or structure or the owner, as the case may be; or

(j) If the waste or other matter is taken on board a ship or aircraft in New Zealand or in New Zealand waters for the purpose of dumping at sea, the master or the owner of the ship or, as the case may be, the pilot or the owner of the aircraft or the person in possession of the aircraft—

commits an offence under this section.

(2) Every person who commits an offence under this section—

(a) Is liable on summary conviction to a fine not exceeding \$50,000; and

(b) Is also liable to pay such amount as the Court may assess in respect of the expenses and costs that have been incurred or will be incurred in removing or cleaning up or dispersing any waste or other matter to which the offence relates from any New Zealand waters or from any foreshore or harbour works in New Zealand.

...

23. Special defences—Where a person is charged with an offence under section 21 or section 22 of this Act, it shall be a defence to prove that the dumping of the waste or other matter in respect of which the offence is alleged to have been committed, or, as the case may be, the failure to comply with any condition, stipulation, or requirement contained in the special permit in respect of which the offence is alleged to have been committed, was necessary—

(a) For the purpose of saving or preventing danger to human life; or

(b) In a case of *force majeure* caused by stress of weather, for the purpose of securing the safety of any ship or aircraft or offshore installation or fixed or floating platform, or any other artificial structure situated at sea or on the sea-bed; or

(c) For the purpose of averting a serious threat to any ship or aircraft or offshore installation or fixed or floating platform, or any other artificial structure situated in the sea or on the sea-bed:

Provided that a defence under this section shall not have effect, unless the Court is satisfied that the dumping of the waste or other matter or, as the case may be, the failure to comply with the condition, stipulation, or requirement was necessary for the purpose alleged in the defence and was a reasonable step to take in all the circumstances:

Provided also that a defence under this section shall not have effect, unless the Court is satisfied that in the circumstances there was every probability that the damage resulting from the dumping of the waste or other matter or, as the case may be, the failure to comply with the condition, stipulation, or requirement was less or would be less than would have otherwise occurred, and that the dumping was so conducted that the likelihood of damage to human or marine life was minimized.

24. Criteria to govern dumping of waste and other matter into the sea—The following matters are to be taken into account in establishing criteria for dumping waste and other matter into the sea:

A. *Characteristics and Composition of the Matter*—1. Total amount and average composition of matter dumped (for example, per year).

2. Form (for example, solid, sludge, liquid, or gaseous).

3. Properties: physical (for example, solubility and density), chemical and biochemical (for example, oxygen demand, nutrients), and biological (for example, presence of viruses, bacteria, yeasts, parasites).

4. Toxicity.

5. Persistence: physical, chemical, and biological.

6. Accumulation and biotransformation in biological materials or sediments.

7. Susceptibility to physical, chemical, and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.

8. Probability of production of taints or other changes reducing marketability of resources (fish, shellfish, etc.):

B. *Characteristics of Dumping Site and Method of Deposit*—1. Location (for example, co-ordinates of the dumping area, depth, and distance from the coast), location in relation to other areas (for example, amenity areas, spawning, nursery, and fishing areas, and exploitable resources).

2. Rate of disposal per specific period (for example, quantity per day, per week, per month).

3. Methods of packaging and containment, if any.

4. Initial dilution achieved by proposed method of release.

5. Dispersal characteristics (for example, effects of currents, tides, and wind on horizontal transport and vertical mixing).

6. Water characteristics (for example, temperature, pH, salinity, stratification, oxygen indices of pollution—dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD)—nitrogen present in organic and mineral form, including ammonia, suspended matter, other nutrients, and productivity).

7. Bottom characteristics (for example, topography, geochemical and geological characteristics and biological productivity).

8. Existence and effects of other dumpings which have been made in the dumping area (for example, heavy metal background reading and organic carbon content).

9. In issuing a special permit, the issuing authority should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Schedule, taking into account seasonal variations:

C. *General Considerations and Conditions*—1. Possible effects on amenities (for example, presence of floating or stranded material, turbidity, objectionable odour, discolouration, and foaming).

2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.

3. Possible effects on other uses of the sea (for example, impairment of water quality for industrial use, underwater corrosion of structures, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor, and protection of areas of special importance for scientific or conservation purposes).

4. The practical availability of alternative land-based methods of treatment, disposal, or elimination, or of treatment to render the matter less harmful for dumping at sea.

PART III

Marine casualties

25. Powers of Minister in relation to ships—(1) Without prejudice to any rights or powers of the Crown exercisable, whether under international law or otherwise, apart from the powers conferred by this section, the powers conferred by this section shall only be exercised and the measures authorized by this section shall only be taken where, as the result of a shipping casualty,

- (a) In New Zealand waters, or
- (b) Outside those waters,

it appears to the Minister necessary to prevent or reduce or eliminate pollution from oil or from any pollutant in, or the risk of any such pollution to, New Zealand waters or to the coast of New Zealand or to related interests.

(2) Where it appears to the Minister that as a result of a shipping casualty or acts related to such a casualty a ship constitutes or is likely to constitute a serious risk of pollution in or to New Zealand waters, or to the coast of New Zealand, or to related interests, then, for the purposes mentioned in subsection (1) of this section, he may—

(a) Issue instructions to the master or to the owner of the ship, or to any person in charge of any salvage operation or his servant or agent, requiring any specified action to be taken or that no action be taken or that no specified action be taken with respect to the ship or its cargo or both; or

(b) Take any measures whatsoever with respect to the ship or the cargo or both, whether or not he has issued instructions under paragraph (a) of this subsection.

(3) Without limiting the generality of the powers conferred by this section, the measures the Minister may direct to be taken or may himself take under paragraph (b) of subsection (2) of this section for the purposes mentioned in subsection (1) of this section may include, with respect to the ship or its cargo or both, operations relating to—

- (a) The removal to another place of the ship or its cargo or both; or
- (b) The salvage of the ship or its cargo or both; or
- (c) The sinking or destruction of the ship or the destruction of its cargo or both; or
- (d) The taking over of control of the ship; or
- (e) The removal of cargo from the ship.

(4) In order to carry out any of the measures referred to in paragraph (b) of subsection (2) of this section, the Minister may, after con-

sulting the owner of the ship to whose master the instructions are to be given,

(a) Instruct the master of any New Zealand ship or home-trade ship, or the master of any other ship within New Zealand waters, to render assistance to any ship that is or is likely to be a shipping casualty; and

(b) Instruct the master of any New Zealand ship or home-trade ship to take on board any equipment, to sail to any place, to render assistance to any ships engaged in assisting a shipping casualty or engaged in any operations for the cleaning up, removal, or dispersal of any oil or pollutant, and to obey the instructions of any person for the time being authorized by the Minister to exercise control over or responsibility for a shipping casualty.

(5) The master or owner of the ship shall be notified of any measures the Minister proposes to take under paragraph (b) of subsection (2) of this section:

Provided that the Minister may dispense with such notice where in his opinion the urgency of the situation is such that the measures must be taken immediately.

...

26. Powers of Minister in relation to offshore installations and pipelines—(1) Without prejudice to any rights or powers of the Crown exercisable, whether under international law or otherwise, apart from the powers conferred by this section, the powers conferred by this section shall only be exercised, and the measures authorized by this section shall only be taken, where, as the result of an incident occurring outside or on board or to an offshore installation or to a pipeline, it appears to the Minister necessary to prevent or reduce or eliminate pollution from oil or from any pollutant in, or the risk of such pollution to, New Zealand waters or to the coast of New Zealand or to related interests.

(2) Where it appears to the Minister that by reason of an incident mentioned in subsection (1) of this section an offshore installation, or a pipeline in New Zealand waters or on the continental shelf, or operations in New Zealand waters or on the continental shelf for the exploration of the sea-bed and subsoil and the exploitation of the natural resources thereof constitute or are likely to constitute a serious risk of pollution to New Zealand waters or to the coast of New Zealand or to related interests, or is likely to be a source of pollution in New Zealand waters or to the coast of New Zealand, then, for the purposes mentioned in subsection (1) of this section, he may, with the concurrence in writing of the Minister of Mines,

(a) Issue instructions to the owner, or to any person in possession of the offshore installation, or to any person in charge of or carrying on any operations for the exploration of the sea-bed and subsoil and exploitation of the natural resources thereof, or to the owner of the pipeline, or to the servant or agent of any such person, requiring any specified action to be taken or requiring that no action be taken or that no specified action be taken with respect to the offshore installation, or to the operations, or to both, or to the pipeline, as the case may be; or

(b) Take any measures whatsoever with respect to the offshore installation, or to the operations, or to both, or to the pipeline, whether or not he has issued instructions under paragraph (a) of this subsection.

(3) The Minister shall notify the owner or any person mentioned in paragraph (a) of subsection (2) of this section of any measures that the Minister proposes to take under paragraph (b) of that subsection:

Provided that the Minister may dispense with such notice where in his opinion the urgency of the situation is such that the measures must be taken immediately.

...

27. Right to compensation—(1) Where any action duly taken by any person pursuant to instructions issued under paragraph (a) of subsection (2) or subsection (4) of section 25 or paragraph (2) of subsection (2) of section 26 of this Act, or any measures taken by the Ministers under paragraph (b) of subsection (2) of section 25 or paragraph (b) of subsection (2) of section 26 of this Act—

(a) Were not reasonably necessary to eliminate or prevent or reduce pollution or the risk of pollution; or

(b) Were such that the good the action or measures taken did or was likely to do was disproportionately less than the expense incurred or the loss or damage suffered as a result of that action or those measures—
a person who has incurred expense or loss or damage as a result of taking that action or of those measures or as a result of his taking those measures himself may recover compensation from the Crown.

(2) Where a claim is brought against the Crown for compensation under subsection (1) of this section, the Court, in determining whether paragraph (b) of subsection (1) of this section applies, shall take into account—

(a) The extent and probability of imminent damage if the measures had not been taken; and

(b) The likelihood of the measures taken being effective; and

(c) The extent of the damage which has been caused by the measures taken.

Cf. Prevention of Oil Pollution Act 1971 (U.K.), s. 13

28. Offences—(1) Every person commits an offence who—

(a) Fails to comply with any instructions issued by the Minister under section 25 or section 26 of this Act or by any person authorized by him; or

(b) Wilfully obstructs a person acting in compliance with any instructions issued by the Minister under either of those sections or by any person authorized by him; or

(c) Wilfully obstructs the Minister or any person acting on behalf of the Minister in carrying out any of the power conferred on the Minister by either of those sections.

(2) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$10,000 for each day or part of each day on which the offence has continued.

(3) In any proceedings for an offence against this section, it shall be a defence to prove that the failure to comply with any instructions issued under section 25 or section 26 of this Act, or, as the case may be, that the wilful obstruction of any person acting in compliance with any such instructions duly issued or of any person acting on behalf of the Minister, resulted from the need to save life at sea.

(4) In any proceedings for an offence against this section, it shall also be a defence to prove that the person charged used all due diligence to comply with the instructions.

....

PART IV

Civil liability

30. Liability for costs of removal of oil or pollutant or waste or other matter—Where any oil or pollutant is discharged or escapes or any waste or other matter is dumped in contravention of this Act—

(a) Into New Zealand waters or into waters over the continental shelf from any place on land, or from any offshore installation, or from a pipeline, or as the result of any operations for the exploration of the sea-bed and subsoil and the exploitation of the natural resources thereof, or from any apparatus used in transferring oil or a pollutant; or

(b) Into New Zealand waters from any ship (other than a ship which is registered in or flies the flag of a Contracting State to the International Convention on Civil Liability for Oil Pollution Damage 1969 and to which section 32 of this Act applies)—

then, notwithstanding anything in section 33 of this Act, an amount equal to all expenditure reasonably incurred by the Minister or a Harbour Board, as the case may be, for the removal from any of the waters referred to in this subsection, or from any foreshore or harbour works, or from any wharf or jetty, or from any other amenity, of that oil or pollutant or that waste or other matter, less any amount ordered to be paid in respect of that removal under section 10 of this Act, is hereby declared to be a debt due to the Crown or the Harbour Board, as the case may be, by the occupier of the land, the owner of the ship or installation or pipeline or apparatus from which the oil or pollutant was discharged or escaped, or from which that waste or other matter was dumped, or, as the case may be, the person carrying on those operations, and may be recovered accordingly.

31. Liability for pollution damage—(1) Subject to this section, the owner of a ship (other than an owner as defined in section 32 of this Act of a ship to which that section applies) carrying any oil or pollutant (whether as part of the cargo or otherwise) shall be liable in damages for all pollution damage in New Zealand or in New Zealand waters attributable

to the discharge or escape of oil or a pollutant into the sea from that ship, or, notwithstanding any special permit issued under section 22 of this Act, attributable to the dumping of waste or other matter into the sea from that ship.

(2) Where oil or any pollutant is discharged or escapes from a ship to which this section applies, or waste or other matter is dumped from a ship to which this section applies, the owner of that ship shall not be liable in damages for pollution damage under subsection (1) of this section to a greater extent than an aggregate amount determined by reference to the tonnage of that ship in accordance with subsection (3) of this section.

(3) The aggregate amount referred to in subsection (2) of this section shall not exceed an amount of 1,500 francs for each ton of the ship's tonnage. That aggregate amount shall be ascertained exclusive of costs of any proceedings.

...

(9) Subject to subsection (10) of this section, the owner of an offshore installation or of a pipeline in New Zealand waters or on the continental shelf, and the person carrying on any operations in New Zealand waters or in waters over the continental shelf or on the continental shelf for the exploration of the sea-bed and subsoil and the exploitation of the natural resources thereof, shall be liable in damages for all pollution damage wheresoever attributable to a discharge or escape of oil or a pollutant, or attributable to the dumping of any waste or other matter. In this subsection the term "pollution damage" includes all damage caused in waters over the continental shelf and all damage caused on the continental shelf or to the natural resources thereof.

(10) Where a ship collides with or damages any offshore installation or pipeline in New Zealand waters or on the continental shelf or in the waters over the continental shelf, the owner of the ship shall be liable in damages for all pollution damage in New Zealand or New Zealand waters or on the continental shelf or in the waters over the continental shelf that is attributable to the discharge or escape of oil or a pollutant into the sea resulting from that collision or the damage to the offshore installation or pipeline, whether the discharge or escape is from the ship or from the offshore installation or from the pipeline or from any apparatus connected to the offshore installation or pipeline.

(11) This section applies to every ship other than a ship to which section 32 of this Act applies.

32. Liability of certain shipowners—(1) Subject to the provisions of this section, the owner of a ship to which this section applies shall be liable in damages for all pollution damage in New Zealand or in New Zealand waters attributable to the discharge or escape of oil into the sea from that ship.

(2) Where oil carried by a ship to which this section applies, whether as part of the cargo or otherwise, is discharged or escapes from that ship,

the owner of that ship shall not be liable in damages for pollution damage under subsection (1) of this section to a greater extent than an aggregate amount determined by reference to the tonnage of that ship in accordance with subsection (3) of this section.

(3) The aggregate amount referred to in subsection (2) of this section shall not exceed an amount of 2,000 francs for each ton of the ship's tonnage or 210 million francs, whichever is the less. That aggregate amount shall be ascertained exclusive of costs of any proceedings.

...

(10) This section applies to any ship, whether a New Zealand ship or not—

(a) Actually carrying a cargo of persistent oil in bulk; and

(b) From which oil has been discharged or has escaped, without the actual fault or privity of the owner, as the result of an incident occurring to or in the ship.

33. Special defences—(1) The owner of a ship shall not be liable in damages for pollution damage under section 31 or section 32 of this Act if he proves that the discharge or escape—

(a) Resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable, and irresistible character; or

(b) Was wholly caused by the act or omission of a third person, other than the servant or agent of the owner, with intent to cause damage; or

(c) Was wholly caused by the negligence or other wrongful act of any Government or other authority, or of any person, responsible for the maintenance of lights or other navigational aids in the exercise of its functions in relation to those lights or aids.

...

(2) The owner of an offshore installation, a place on land, or a pipeline, and the person in charge of the exploration operations mentioned in subsection (9) of section 31 of this Act, shall not be liable for pollution damage under that section, if he proves that the discharge or escape—

(a) Resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable, and irresistible character; or

(b) Was wholly caused by the act or omission of a third person, other than the servant or agent of the owner, with intent to cause damage.

...

37. Compulsory insurance for ships—(1) This section applies to—

(a) Any ship, wherever registered and of whatever nationality (including a New Zealand ship and a home-trade ship), carrying a quantity of

oil in bulk, as cargo, in excess of any quantity prescribed by regulations made under section 68 of this Act, or, while no such regulations are in force, in excess of 2,000 tons of oil; and

(b) Any ship or class of ships carrying any pollutant in bulk to which the provisions of this section have been applied by regulations made pursuant to section 46 of this Act.

(2) Subject to the provisions of subsections (3) and (5) of this section, a ship to which this section applies shall not enter or leave any port in New Zealand or arrive at or leave an offshore terminal in New Zealand waters or, if a New Zealand ship, a port in any other country or an offshore terminal in the territorial sea of any other country, unless the ship carries on board a certificate currently in force complying with the provisions of subsection (3) of this section and issued—

(a) In the case of a New Zealand ship, by the Minister; and

(b) In the case of a ship registered in a country in respect of which the International Convention on Civil Liability for Oil Pollution Damage 1969 is in force, by or under the authority of the Government of that country; and

(c) In the case of a ship registered in any other country, by the Minister or by or under the authority of the Government of that other country, or by or under the authority of the Government of any other country and recognized for the purposes of this subsection by regulations made under section 68 of this Act.

(3) Subject to subsection (5) of this section, the certificate required to be carried by any ship in accordance with subsection (2) of this section—

(a) Shall show that there is in force in respect of that ship a contract of insurance, or other financial security, in an amount not less than the aggregate amount of the liability specified in subsection (3) of section 32 of this Act; and

...

(4) It shall be sufficient for the purposes of paragraph (a) of subsection (3) of this section if the certificate shows—

(a) That there is in force in respect of the ship a contract of insurance or other financial security covering the aggregate amount of the liability of the owner up to an amount equivalent to 1,500 francs for each ton of the ship's tonnage or an amount of 125 million francs, whichever is the less; and

(b) That the Oil Fund (as defined in section 47 of this Act) has in accordance with section 52 of this Act, agreed to provide insurance or other financial security for the amount of the difference between the aggregate of the amount of the liability specified in paragraph (a) of this subsection and the aggregate of the amount specified in subsection (3) of section 32 of this Act.

(5) It shall be sufficient for the purposes of subsections (2) and (3) of this section, in the case of a ship owned by a State and being used for commercial purposes, if there is in force in respect of that ship a certificate issued by the Government of the State of its registry stating that the ship is owned by that State and that any liability that may be incurred in respect of that ship for pollution damage under section 32 of this Act will be met up to the limit prescribed by Article V of the International Convention on Civil Liability for Oil Pollution Damage 1969.

...

(8) If a ship to which this section applies enters or leaves or attempts to enter or leave a port in New Zealand, or arrives at or leaves or attempts to arrive at or leave an offshore oil terminal in New Zealand waters, in contravention of this section, the owner or the master commits an offence, and is liable on summary conviction to a fine not exceeding \$50,000.

(9) If a ship to which this section applies fails to carry, or the master fails to produce, the certificate required by this section to be carried, the master commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000.

(10) If a ship attempts to leave a port in New Zealand, or an offshore oil terminal in New Zealand waters, in contravention of this section, the ship may be detained until such time as a certificate complying with the requirements of this section is obtained or produced, as the case may be.

...

38. Certificates—(1) If the Minister is satisfied that, in respect of any New Zealand ship, or in respect of any ship registered in a country in respect of which the International Convention on Civil Liability for Oil Pollution Damage 1969 is not in force, there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other financial security satisfying the requirements specified in section 37 of this Act, he may issue to the owner of that ship a certificate under that section.

(2) If the Minister is not satisfied that the person providing the insurance or other financial security will be able to meet his obligations thereunder, or that the insurance or other financial security will cover the owner's liability under section 32 of this act in all circumstances, he shall refuse to issue a certificate.

(3) If the Minister is satisfied that, by reason of any modification or variation of or to the contract of insurance or other financial security, the owner of a ship will not be covered up to the limit of the liability he may incur under section 32 of this Act, he may cancel any certificate issued pursuant to this section, or may require, as a condition of such a certificate continuing in force, the immediate deposit with him of adequate additional financial security.

...

(7) Regulations made under section 68 of this Act may prescribe the form of a certificate under this section and the annual fees for the issue

of a certificate, for the cancellation of a certificate in such circumstances other than those mentioned in subsection (3) of this section as may be prescribed by the regulations, for the surrender of cancelled certificates, and for penalties, for failure to surrender any certificate required by this section or by the regulations to be surrendered.

39. Rights of third parties against insurers of shipowner—(1) Where the owner of a ship to which section 32 of this Act applies is alleged to have incurred liability under that section, proceedings to enforce a claim in respect of that liability may be brought against any person (in this section referred to as the insurer) providing insurance or other financial security for the owner's liability for pollution damage to which the certificate issued under section 38 of this Act relates.

...

40. Rights against third parties—(1) Where the owner of a ship to which section 31 of this Act applies, or the owner of a ship to which section 32 of this Act applies, would have incurred liability under the said section 31 or, as the case may be, the said section 32 but for the fact that he has proved any of the matters specified in paragraph (b) or paragraph (c) of subsection (1) of section 33 of this Act, proceedings to enforce a claim for pollution damage may be brought under this section against the persons specified in the said paragraph (b) or, as the case may be, against the Crown or other authority or person in respect of the matters specified in the said paragraph (c):

Provided that no such proceedings shall be brought where the Government mentioned in the said paragraph (c) is the Government of any country other than New Zealand.

(2) Where the owner of an offshore installation, a place on land, or a pipeline, or the person carrying on exploration operations to which subsection (9) of section 31 of this Act applies would have incurred liability under that section but for the fact that he has proved any of the matters mentioned in paragraph (b) of subsection (2) of section 33 of this Act, proceedings to enforce a claim for pollution damage may be brought under this section against the persons mentioned in the said paragraph (b).

(3) The defendant in any proceedings brought under this section shall be entitled to the same exemptions from liability as is an owner under section 31 or section 32 of this Act or, as the case may be, an owner or person carrying on operations under subsection (9) of section 31 of this Act, and to any or all of the defences which he would be entitled to raise in proceedings under this Part of this Act to enforce any claim for pollution damage.

(4) The liability of the defendant in proceedings under subsection (1) of this section is limited in like manner and to the same extent as the liability of an owner under section 31 or section 32 of this Act is limited.

41. Time for bringing proceedings—No action to enforce a claim in respect of liability incurred under section 31 or section 32 of this Act shall

be brought in any Court in New Zealand, unless the proceedings are commenced not later than three years after the date on which the claim arose, nor later than six years after the incident, or, as the case may be, the first of the incidents, by reason of which liability was incurred.

42. Ships owned by a State—Subject to paragraphs (c) and (d) of subsection (1) of section 65 of this Act, a State which is a party to the International Convention on Civil Liability for Oil Pollution Damage 1969 shall in any action brought in a New Zealand Court to enforce a claim in respect of liability incurred under section 32 of this Act be deemed to have waived any defence based on its status as a sovereign State and to have submitted to the Court's jurisdiction, but nothing in this section shall permit the levy of execution against the property of any State.

43. Extension of admiralty jurisdiction—(1) The admiralty jurisdiction of the Supreme Court of New Zealand shall extend to any claim under this Part of this Act in respect of liability for pollution damage.

(2) No action shall be brought in a New Zealand Court to enforce any claim attributable to the discharge or escape of oil causing damage in or to the territory or territorial sea of a country, other than New Zealand, in respect of which the International Convention on Civil Liability for Oil Pollution Damage 1969 is in force.

(3) Nothing in this Part of this Act shall prejudice any claim, or the enforcement of any claim, that a person incurring liability under this Part may have against another person in respect of that liability.

...

45. Special provisions for offshore installations, etc.—(1) Regulations made under section 68 of this Act may require the owner of an offshore installation, or the owner of a place on land, or the owner of a pipeline, or the person in charge of the operations mentioned in subsection (1) of section 31 of this Act to maintain insurance or other financial security up to the limits of an aggregate amount of liability specified in the regulations.

(2) Regulations made under section 68 of this Act may, subject to such modifications and exceptions as are specified in the regulations, apply the provisions of section 35 (limitation in actions against shipowners), section 36 (restrictions on enforcement of claims against shipowners), section 38 (certificates), and section 39 (rights of third parties against insurers) of this Act to any offshore installation or place on land or pipeline or operations for the exploration of the sea bed and subsoil and the exploitation of the natural resources thereof, or to all or any of them.

46. Extension of this Part to pollutants—Regulations may be made under section 68 of this Act applying all or any of the provisions of this Part of this Act that apply to ships carrying oil in bulk, subject to such modifications and exceptions as are specified in the regulations, to any ship or ships carrying a specified pollutant or specified pollutants in bulk, whether as cargo or otherwise.

...

62. Detention of ships in cases of damage to property by discharge of oil or pollutant—(1) If the Magistrate by whom any person is convicted of an offence under this Act in respect of the discharge or escape of oil or a pollutant from a ship, or any other Magistrate, is satisfied that damage to any property has been or is likely to be caused by the discharge or escape of oil or by the discharge or escape of a pollutant, he may, upon its being shown to him by any applicant that none of the owners of the ship resides in New Zealand, issue an order directed to any officer of Customs or other officer named by the Magistrate, requiring him to detain the ship until such time as security, to be approved by the Magistrate, is given to abide the event of any action, suit, or other legal proceedings that may be instituted in respect of the damage to property, and to pay all costs, damages, and other money that may be awarded therein:

Provided that in the case of a ship to which section 32 of this Act applies, a certificate issued under section 38 of this Act, or, where no certificate has been issued under that section, a certificate complying with the terms of Article VII of the International Convention on Civil Liability for Oil Pollution Damage 1969, on being produced to the Magistrate, shall be accepted by him as sufficient security for the purposes of this section.

...

64. General provisions as to application of Act—(1) The provisions of this Act, except provisions which are expressed to apply only to New Zealand ships or only to New Zealand ships and home-trade ships, shall (subject to any exemptions expressly conferred by or under this Act) apply to all ships, whether registered or not, and of whatever nationality.

...

65. State-owned ships—(1) The provisions of this Act shall not apply to—

(a) Naval ships as defined in section 2 of the Defence Act 1971:

Provided that—

(i) The provisions of sections 30 to 35 and sections 40, 41, and 43 of this Act (relating to civil liability) shall apply to naval ships (as so defined), and every other provision of this Act which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly; and

(ii) In the application of the provisions so applied, the term “tonnage”, in relation to any such naval ship, means the tonnage of the ship determined in accordance with section 466 of the Shipping and Seamen Act 1952:

(b) Aircraft for the time being used as aircraft of the armed forces of a State other than New Zealand;

(c) Warships of a State other than New Zealand;

(d) Other ships or aircraft owned or operated by a State other than New Zealand and for the time being used only for government purposes other than commercial purposes.

(2) Subject to the provisions of paragraph (a) of subsection (1) of this section, the provisions of this Act, whether or not they are expressed to apply only to New Zealand ships, shall apply to New Zealand Government ships as they apply to other New Zealand ships.

(3) No naval ship as defined in section 2 of the Defence Act 1971 and no New Zealand Government ship shall be liable to arrest or detention under any provision of this Act.

(4) In this Act the term "owner", in relation to any naval ship (as so defined) and to any New Zealand Government ship, means Her Majesty in right of Her Government in New Zealand.

...

68. Regulations—The Governor-General may from time to time, by Order in Council, make regulations¹—

(a) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration;

(b) Prescribing offences for breaches of any such regulations, and, except where some other penalty is prescribed by this Act, prescribing fines, not exceeding \$2,000, in respect of any such offence and, where the offence is a continuing one, further fines not exceeding \$200 for each day on which the offence has continued.

...

(b) **THE MARINE POLLUTION (DISPERSANTS AND EXCEPTIONS) REGULATIONS 1975²**

2. Interpretation—In these regulations, unless the context otherwise requires—

"The Act" means the Marine Pollution Act 1974, and expressions defined therein have the meanings so defined;

"Dispersant" means a substance used or intended to be used for the dispersion or emulsification of oil in the sea;

"Director" means the person for the time being holding the position of Director of the Marine Division of the Ministry of Transport; and includes his deputy;

"From the nearest land" means—

(a) In relation to New Zealand, from the baseline of the territorial sea as defined in sections 5 and 6 of the Territorial Sea and Fishing Zone Act 1965;

(b) In relation to any land outside New Zealand, from the baseline of the territorial sea of the territory in question established in accordance

¹ E.g. the Marine Pollution (Dispersants and Exceptions) Regulations 1975; the Marine Pollution (Insurance Certificate) Regulations 1976.

² Made pursuant to Section 68 of the Marine Pollution Act 1974. Entered into force pursuant to Section 1 on 23 April 1975. Text provided by the Permanent Representative of New Zealand to the United Nations in a note verbale of 29 June 1977.

with the provisions of the Convention on the Territorial Sea and the Contiguous Zone, Geneva, 1958;

Provided that in the case of 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;

"In ballast", in relation to a tanker, means any occasion on which the tanker is not carrying oil in bulk as cargo but has on board oil residues from a cargo of oil in bulk previously carried;

"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 the international nautical mile of 1,852 metres;

"Tanker" means a ship 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.

PART I

Dispersants

3. Exception for dispersants—Subject to regulation 5 of these regulations, section 3 (1) of the Act shall not apply in respect of a dispersant approved by the Director under regulation 4 of these regulations which is discharged from any ship or from any tanker for the purpose of dispersing oil which has been discharged or has escaped into the sea.

4. Approval of dispersants—The Director may, by notice in the *Gazette*, approve any dispersant that he is satisfied complies with the provisions of the Schedule to these regulations.

5. Prohibition on the use of dispersants—The Director may, by notice in writing to the local authority or Harbour Board having the control of any area of the sea or coast of New Zealand, either prohibit or impose such conditions as he considers appropriate on the use of any specified dispersant in that area, if he is satisfied that the use of the dispersant would result in significantly greater damage to that area of sea or coast of New Zealand than would have resulted by action of oil alone.

PART II

Exceptions

6. Exception for ships other than tankers—(1) This regulation applies to every New Zealand ship that is not a tanker and to every home-trade ship that is not a tanker.

(2) Every ship to which this regulation applies is hereby excepted from the operation of section 4 (1) of the Act, provided all of the following conditions are satisfied:

- (a) The ship is proceeding en route; and
- (b) The instantaneous rate of discharge of oil content does not exceed 60 litres per mile; and
- (c) The oil content of the discharge is less than 100 parts per 1 million parts of the mixture; and
- (d) The discharge is made as far as practicable from the nearest land.

7. Exceptions for tankers—(1) This regulation applies to every New Zealand tanker and to every home-trade tanker.

(2) Every tanker to which this regulation applies is hereby excepted from the operation of section 4 (1) of the Act, provided all of the following conditions are satisfied:

- (a) The tanker is proceeding en route in ballast; and
- (b) The instantaneous rate of discharge of oil content does not exceed 60 litres per mile; and
- (c) The total quantity of oil discharged does not exceed 1/15,000 of the total oil-cargo carrying capacity of the tanker; and
- (d) The tanker is more than 50 miles from the nearest land.

...

PART III

Revocation

8. Revocation—The Oil in Navigable Waters (Exceptions) Regulations 1971 are hereby revoked.

SCHEDULE

Reg. 4. Dispersant specification

1. *General*—This specification relates to the supply of detergents, dispersants, emulsifiers, solvent-emulsifiers, and similar materials required for use in beach-cleaning operations and for oil dispersal at sea. These materials are handled in the liquid phase, and for this reason the material offered against this specification should, under normal operating conditions, contain no solid material, no suspended matter, and no additional liquid phases. It should be non-corrosive to the storage containers, and should not contain substances that are normally considered to be toxic to humans or are likely to cause irritation of the eyes and skin.

2. *Prohibited Ingredients*—The dispersant supplied shall not contain benzene, halogenated compounds, phenol, cresols, caustic alkali, or free mineral acid.

..

15. *Variation of Specification*—All material supplied shall conform with this specification. In the event of a manufacturer being unable to maintain supplies of material under emergency conditions, full details of changes that will be required to meet the heavy demand (for example, changes in solvent composition) must be notified in advance. Such “modified” materials, may not be supplied without special authority, and the containers holding any such modified material must be clearly marked with the letter M, both in front of and behind the letters or number, or both, identifying the product. (Thus, for example, a product normally identified by the letters ABC followed by the numbers 123 would, if supplied in a modified form, be labelled MABC 123M.)

7. SPAIN

- (a) [ACT No. 21/1977 OF 1 APRIL 1977 CONCERNING THE IMPOSITION OF PENALTIES IN CASES OF MARINE POLLUTION BY DUMPING FROM SHIPS OR AIRCRAFT, Article 7]¹
- (b) [ORDER OF 26 MAY 1976 CONCERNING THE PREVENTION OF MARINE POLLUTION BY DUMPING FROM SHIPS AND AIRCRAFT, Article 6]²
- (c) [DECREE No. 2862/76 OF 30 JULY 1976 CONTAINING THE REGULATION GIVING EFFECT TO ACT No. 21/74 OF 27 JUNE 1974, Articles 28 (1.12), (1.17); 35 (1.1), (1.9), (1.10), (1.11), (1.14), (1.17), (1.21), (1.43); 39 (1); 66 (2.3)]³

¹ *Supra*, division I, subdivision A, chap. VII, 8 (a).

² *Ibid.*, 8 (b).

³ *Ibid.*, chap. IX, 2 (c).