



Number 8 of 1981

DUMPING AT SEA ACT, 1981

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ACTS REFERRED TO

Companies Act, 1963	1963, No. 23
Criminal Procedure Act, 1967	1967, No. 12
Defence Act, 1954	1954, No. 18
Fishery Harbour Centres Act, 1968	1968, No. 18
Harbours Act, 1946	1946, No. 9
Maritime Jurisdiction Act, 1959	1959, No. 22
Mercantile Marine Act, 1955	1955, No. 29
Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971	1971, No. 12
Petty Sessions (Ireland) Act, 1851	1851, c. 93
Public Offices Fees Act, 1879	1879, c. 58

**BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR.**

Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS, AN STUARA, ARD-OIFIG AN PHOIST,
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Number 8 of 1981

DUMPING AT SEA ACT, 1981

AN ACT TO CONTROL DUMPING IN THE SEA.

[19th April, 1981]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS: 5

Definitions.

1.—In this Act, save where the context otherwise requires—

“ authorised officer ” means a person appointed to be an authorised officer under *section 4* of this Act;

“ company ” has the same meaning as in the Companies Act, 1963;

“ dumping ”, in relation to a substance or material, means deliberately disposing (including disposing by deliberate combustion for the purpose of thermal destruction) at sea of the substance or material from, or in conjunction with, a vessel,^d aircraft or marine structure (other than any such disposal that is incidental to or derived from the normal operation of a vessel, aircraft or marine structure (or its equipment) that is not constructed or adapted wholly or mainly for the purpose of the disposal at sea of substances or materials) but does not include the discharge, for the purpose of dispersing or otherwise altering the distribution or character of any mineral oil on the surface of the sea, of a substance or material designed or intended for use for the purpose aforesaid and cognate words shall be construed accordingly; 10 15 20

“ functions ” includes powers and duties and a reference to the performance of a function includes a reference to the exercise of a power and the carrying out of a duty; 25

“ harbour authority ” has the same meaning as in the Harbours Act, 1946;

“ Irish aircraft ” means an aircraft registered in the State;

“ Irish marine structure ” means a marine structure owned by or leased to an individual resident in the State or owned by or leased to a company; 30

“ Irish vessel ” means a ship which is an Irish ship within the meaning of the Mercantile Marine Act, 1955, or a vessel which is owned by, leased or chartered to, an individual resident in the State or a company, and is not registered under the law of another country; 35

“the London Convention” means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter done at London on the 29th day of December, 1972, as amended by the Consultative Meeting of Contracting Parties to the Convention on the 12th day of October, 1978;

“marine structure” means a platform or other man-made structure at sea, whether fixed or floating;

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

10 “the Minister” means the Minister for Transport;

“the Oslo Convention” means the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft done at Oslo on the 15th day of February, 1972;

15 “sea” includes any area submerged at mean high water springs, an estuary or an arm of the sea and the tidal waters of any channel, creek, bay or river;

“substance or material” includes thing;

20 “territorial seas of the State” means the territorial seas of the State for the purposes of the Maritime Jurisdiction Act, 1959, and the internal waters of the State for the purposes of that Act.

2.—(1) If any substance or material—

Restrictions on
dumping at sea.

(a) is dumped in the territorial seas of the State,

25 (b) is dumped anywhere in the sea outside the territorial seas of the State and the vessel, aircraft or marine structure concerned in the dumping is an Irish vessel, an Irish aircraft or an Irish marine structure, or

(c) is loaded on to a vessel, aircraft or marine structure in the State or in the territorial seas of the State for dumping,

30 the master and the owner of the vessel, or the pilot in command and the owner of the aircraft, or the person in charge and the owner of the structure, as the case may be, and any other person who causes or permits the dumping or loading shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under this section to prove—

35 (a) that the commission of the offence was due to a mistake or to the act or default of another person or to an accident or some other cause beyond his control and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or
40 any person under his control, or

(b) that the dumping or loading concerned took place under and in accordance with a permit under section 3 of this Act, or, in the case of dumping to which subsection (1) (b) of this section relates, under and in accordance with a permit granted by another State that is party to the Oslo Convention or the London Convention.
45

(3) (a) Paragraphs (a) and (b) of subsection (1) of this section shall not apply in relation to dumping, if it is reasonably necessary for the purpose of securing the safety of a vessel, aircraft or marine structure or of saving life.

(b) Dumping for a purpose specified in paragraph (a) of this subsection shall be reported to the Minister by the master of the vessel, pilot in command of the aircraft, or person in charge of the marine structure, concerned, as the case may be, as soon as may be, but not later than 7 days after it takes place. 5
10

(c) A person who contravenes paragraph (b) of this subsection shall be guilty of an offence.

Permits in
relation to
dumping.

3.—(1) (a) The Minister may, after consultation with the Minister for the Environment, the Minister for Fisheries and Forestry, the Minister for Industry, Commerce and Tourism and the Minister for Energy, grant, or refuse to grant, a permit, in relation to a specified vessel, aircraft or marine structure, to a person who applies to the Minister therefor authorising the dumping of a specified quantity of a specified substance or material in a specified place within a specified period of time or the loading on to that vessel, aircraft or marine structure, of a specified quantity of a specified substance or material at a specified place within a specified period of time, being a substance or material that is intended to be dumped from the vessel, aircraft or marine structure. 15
20
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(b) In deciding whether to grant or refuse a permit under this subsection, the Minister shall take into consideration— 30

(i) the provisions of Annex III (the text of which is set out in Part I of the Table to this section) to the London Convention, and

(ii) if the permit, if granted, would relate to a place in the area to which the Oslo Convention applies, the provisions of Annex III (the text of which is set out in Part II of the Table to this section) to the Oslo Convention. 35

(2) A person who applies to the Minister for a permit under this section shall furnish to the Minister such information as the Minister may consider necessary for the purpose of the exercise of his functions under this section, including, where so requested by the Minister, information that will satisfy the Minister that there is no suitable alternative means of disposal of the substance or material concerned. 40

(3) A permit under this section may include such conditions as the Minister thinks appropriate. 45

(4) The Minister may, after consultation with the Minister for the Environment, the Minister for Fisheries and Forestry, the Minister for Industry, Commerce and Tourism and the Minister for Energy, revoke or amend a permit under this section whenever he thinks it appropriate to do so. 50

(5) The Minister may, with the consent of the Minister for Finance and after consultation with the Minister for Fisheries and Forestry,

charge, in respect of an application for a permit under this section, a fee of such amount as, in the opinion of the Minister, is appropriate having regard to the cost of any tests and investigations to be carried out for the purpose of enabling the Minister to decide
5 whether to grant or refuse the application.

(6) The Minister may, with the consent of the Minister for Finance and after consultation with the Minister for Fisheries and Forestry, in a case where he proposes to grant a permit to a person under this section, charge the person (in addition to any fee paid by the person
10 under subsection (5) of this section) a fee of such amount as, in the opinion of the Minister, is appropriate having regard to the cost of any monitoring, surveys and examinations carried out or to be carried out for the purpose of enabling the Minister to determine
15 where dumping may take place and to assess the effects of the dumping to which the permit will relate on the marine environment and the living resources which it supports.

(7) A person who, in relation to an application for a permit under this section, makes a statement to the Minister that is false or misleading in a material respect shall be guilty of an offence unless he
20 shows that he did not, and could not reasonably have been expected to, know that the statement was false or misleading in a material respect.

(8) In relation to the application of this Act to substances, devices, apparatus and products to which the Nuclear Energy (An Bord
25 Fuinnimh Núicléigh) Act, 1971, or any order under section 6 thereof applies—

(a) references in this section (other than in this subsection) and in sections 2 (3) (b) and 5 (1) of this Act to the Minister shall be construed as references to the Minister for Energy and to An Bord Fuinnimh Núicléigh as his agent, and
30

(b) references in this section (other than in this subsection) to the Minister for Energy shall be construed as references to the Minister,

and a permit granted by the Minister for Energy or An Bord Fuinnimh
35 Núicléigh under this section authorising any dumping or loading shall be deemed, for the purposes of any such order, to be a licence under that order authorising that dumping or loading.

(9) (a) The Minister shall cause to be established and kept a register and shall cause to be entered in the register
40 particulars of all permits granted under this section.

(b) The register kept under this section shall be open to inspection by the public at all reasonable times.

TABLE

PART I

45 *Annex III to the London Convention*

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account Article IV (2), include:

A—Characteristics and composition of the matter

50 1. Total amount and average composition of matter dumped (e.g. per year).

2. Form, e.g. solid, sludge, liquid, or gaseous.

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

4. Toxicity.

5. Persistence: physical, chemical and biological. 5

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. 10

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 (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources). 15

2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).

3. Methods of packaging and containment, if any. 20

4. Initial dilution achieved by proposed method of release.

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

6. Water characteristics (e.g. 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). 25

7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity). 30

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

9. In issuing a permit for dumping, Contracting Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Annex, taking into account seasonal variations. 35

C—General considerations and conditions

1. Possible effects on amenities (e.g. presence of floating or stranded material, turbidity, objectionable odour, discolouration and foaming). 40

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 (e.g. 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).

- 5 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 II

Annex III to the Oslo Convention

- 10 Provisions governing the issue of permits and approvals for the dumping of wastes at sea.

1. *Characteristics of the waste*

- (a) Amount and composition;
 (b) Amount of substances and materials to be deposited per day
 15 (per week, per month);
 (c) Form in which it is presented for dumping, i.e. whether as a solid, sludge or liquid;
 (d) Physical (especially solubility and specific gravity), chemical, biochemical (oxygen demand, nutrient production) and
 20 biological properties (presence of viruses, bacteria, yeasts, parasites, etc.);
 (e) Toxicity;
 (f) Persistence;
 (g) Accumulation in biological materials or sediments;
 25 (h) Chemical and physical changes of the waste after release, including possible formation of new compounds;
 (i) Probability of production of taints reducing marketability of resources (fish, shellfish, etc.).

2. *Characteristics of dumping site and method of deposit*

- 30 (a) Geographical position, depth and distance from coast;
 (b) Location in relation to living resources in adult or juvenile phases;
 (c) Location in relation to amenity areas;
 (d) Methods of packing, if any;
 35 (e) Initial dilution achieved by proposed method of release;
 (f) Dispersal, horizontal transport and vertical mixing characteristics;
 (g) Existence and effects of current and previous discharges and dumping in the area (including accumulative effects).

40 3. *General considerations and conditions*

- (a) Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate use of the sea;
 (b) In applying these principles the practical availability of alternative means of disposal or elimination will be taken into
 45 consideration.

**Powers of
authorised
officers.**

- 4.—(1) (a) The Minister may appoint an officer of the Minister or, with the consent of the Minister for Fisheries and Forestry, an officer of that Minister of the Government, to be an authorised officer.
- (b) The Minister for Energy may appoint an officer of that Minister of the Government or of An Bord Fuinnimh Núicléigh to be an authorised officer and an authorised officer appointed under this paragraph may exercise the powers of an authorised officer under this Act only in so far as this Act applies in relation to substances, devices, apparatus and products to which the Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971, or any order under section 6 thereof applies.
- (c) A harbour authority may appoint an officer of the authority to be an authorised officer and an authorised officer appointed under this paragraph may exercise the powers under this Act of an authorised officer in, but only in, the harbour of the authority.
- (d) The Commissioners of Public Works may appoint an officer of the Commissioners to be an authorised officer and an authorised officer appointed under this paragraph may exercise the powers under this Act of an authorised officer in, but only in, a harbour of the Commissioners.
- (e) Córas Iompair Éireann may appoint an officer of Córas Iompair Éireann to be an authorised officer and an authorised officer appointed under this paragraph may exercise the powers of an authorised officer under this Act in, but only in, a harbour managed by Córas Iompair Éireann.
- 5) An authorised officer may, for the purposes of this Act—
- (a) at any reasonable time enter any vehicle, place or premises, and board any vessel, aircraft or marine structure and carry out any inspection and examination which he reasonably considers necessary for the purposes aforesaid.
- (b) require the person in charge to be present during the inspection and examination and to furnish to him such information as he may reasonably require for the purposes aforesaid.
- (c) open any container at the place or in the premises, vehicle, vessel, aircraft or marine structure,
- (d) examine and take samples of any material or substance at the place or in the premises, vehicle, vessel, aircraft or marine structure,
- (e) require any person at the place or in the premises, vehicle, vessel, aircraft or marine structure to produce to him any document in the power or control of that person which he considers he ought to see for the purposes aforesaid,
- (f) inspect, examine and take copies of, or extracts from, any such document as aforesaid and require the person by

whom any such document is kept or who produced the document to certify a copy thereof as a true copy, and

(g) monitor the effects of any dumping.

5 (3) For the purpose of entering a vehicle, place or premises or boarding a vessel, aircraft or marine structure, an authorised officer may require the person in charge to do anything that will facilitate entry or boarding and the power conferred by this subsection includes power, in the case of a vehicle, vessel or marine structure, to require the person in charge to stop it.

10 (4) An authorised officer may, for the purposes of this Act, require the attendance of the master of a vessel, the pilot in command of an aircraft or the person in charge of a marine structure on board that vessel, aircraft or marine structure and may, for the purposes aforesaid, make of him any inquiry which appears to him
15 to be necessary.

(5) Where an authorised officer reasonably suspects that, in relation to a vessel, aircraft or marine structure in the territorial seas of the State or in a harbour or airport in the State, a contravention of this Act is taking, or has taken, place, he may detain the
20 vessel, aircraft or marine structure at any place in the territorial seas of the State or at any convenient harbour or airport in the State until the happening of one of the following—

(a) in the case of dumping or loading, that is suspected to be in
25 contravention of this Act, the production to the officer of a permit under this Act authorising the dumping or loading,

(b) the officer's becoming satisfied that a contravention of this Act has not taken place in relation to the vessel, aircraft or marine structure,

30 (c) the final determination of any court proceedings (including any appeal, re-trial or other proceedings) in respect of such a contravention as aforesaid and the payment of any fine imposed in the proceedings,

35 (d) the giving of security which, in the opinion of a Justice of the District Court, is satisfactory for payment, in the event of a conviction of an offence in relation to the said contravention or in the event of a failure by a defendant in any proceedings in relation to such a contravention to attend before any court when such attendance is required for the purposes of the proceedings, of a sum that in the
40 opinion of the Justice is sufficient to provide for—

(i) payment of the maximum fine or fines ordered, or which may be ordered, to be paid in respect of the offence or offences, and

45 (ii) the estimated amount of the costs (if any) of any trials, appeals or other proceedings in relation to the offence or offences concerned awarded, or which may be awarded, against the defendant concerned.

(6) The security provided for in subsection (5) of this section is in
50 addition to and not in substitution for any other bond or recognisance which the defendant concerned may be required to enter into by the

Justice of the District Court concerned in relation to any trials, appeals or other proceedings in relation to the offence or offences.

(7) A person who obstructs, or interferes with, an authorised officer in the course of the performance by him of his functions under this section or fails or refuses to comply with a requirement of an authorised officer under this section shall be guilty of an offence. 5

(8) An authorised officer shall be furnished with a certificate of his appointment and, when performing any function under this section, the officer shall, if requested by any person affected, produce the certificate to that person. 10

Provisions in relation to offences.

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

(2) Summary proceedings in respect of an offence committed in a fishery harbour centre within the meaning of the Fishery Harbour Centres Act, 1968, the harbour of a harbour authority or the Commissioners of Public Works or a harbour managed by C oras Iompair  ireann may be brought by the Minister for Fisheries and Forestry, the authority, the Commissioners of Public Works or C oras Iompair  ireann, as the case may be. 15

(3) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted— 20

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

(b) if at the expiry of that period, the person to be charged is outside the State, within six months of the date on which he enters the State. 25

(4) Proceedings for an offence under this Act or for an offence under section 6 (4) of the Nuclear Energy (An Bord Fuinnimh N icl eigh) Act, 1971, committed at sea may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the State. 30

(5) Where an offence under this Act is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body or any person who was purporting to act in any such capacity, he, as well as the body, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly. 35

Indictment of bodies corporate.

6.—(1) A body corporate may be sent forward for trial on indictment for an offence under section 2 of this Act with or without recognisances. 40

(2) On arraignment before the Central Criminal Court or the Circuit Court, the body corporate may enter in writing by its representative a plea of guilty or not guilty and, if it does not appear by a representative appointed by it for the purpose, or, though it does so appear, fails to enter any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the body corporate had duly entered that plea. 45

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

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

7.—(1) Where a fine imposed on a person under this Act is not duly paid, the court may, without prejudice to any other powers for enforcing payment, direct the amount remaining unpaid to be levied by distress and sale of the vessel, aircraft or marine structure concerned and its tackle, furniture and apparel.

Collection
application
fines.

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

8.—(1) A person guilty of an offence under *section 2* of this Act shall be liable, on conviction on indictment, to a fine or, at the discretion of the court, to imprisonment for a term not exceeding 5 years or to both the fine and the imprisonment.

Penalties.

(2) A Justice of the District Court shall have jurisdiction to try summarily an offence under the said *section 2* if—

- (a) the Justice is of opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,
- (b) the Director of Public Prosecutions consents, and
- (c) the defendant (on being informed by the Justice of his right to be tried by a jury) does not object to being tried summarily,

and, upon conviction under this subsection, the said defendant shall be liable to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment.

(3) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under the said *section 2* as if, in lieu of the penalties specified in subsection (3) of the said section 13, there were specified therein the penalty provided for by *subsection (2)* of this section, and the reference in subsection (2) (a) of the said section 13 to the penalties provided for in the said subsection (3) shall be construed and have effect accordingly.

(4) A person guilty of an offence under this Act (other than *section 2* of this Act) shall be liable, on summary conviction, to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment.

Exemptions.

9.—This Act does not apply to a State ship or service aircraft (within the meaning, in each case, of the Defence Act, 1954).

Fees.

10.—(1) Fees under this Act shall be taken and collected in such manner as the Minister for Finance may from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance. 5

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

Expenses.

11.—The expenses incurred by the Minister or any other Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 10

Short title and commencement.

12.—(1) This Act may be cited as the Dumping at Sea Act, 1981.

(2) This Act shall come into operation on such day or days as by order or orders made by the Minister under this section may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions. 15