

Prevention of Sea-Water Pollution by Oil Ordinance

(New Version)

1980 (Translation)

Definitions and application

1. (a) In this Ordinance:

"transfer", in relation to oil, means transfer in bulk;

"vessel" has the same meaning as in the Shipping (Vessels)

Ordinance, 1960, but does not include a military vessel or a

vessel providing auxiliary services to a military vessel;

"port manager" has the same meaning as in the Ports Ordinance

(New Version), 1971;

"inspector" means a person appointed by the Minister of the

Interior to be an inspector under section 6;

"fineable offense" means an offense under section 5 or 18;

"oil" means oil of any description and includes oil mixed with

water and spirit produced from oil.

(b) This Ordinance shall apply to Israeli territorial

waters and inland waters (both hereinafter referred to as "sea water").

Saving of laws

2. The provisions of this Ordinance shall be in addition to and

not in derogation of or substitution for the provisions of any other

enactment for the protection of sea-water.

Application of provisions

3. Notwithstanding the provision of section 1(b), the provisions of sections 6 to 12, 20 and 22 shall apply to Israeli vessels even when outside territorial waters of Israel.

Application to vessels outside territorial waters

4. Notwithstanding the provision of section 1(b), the Minister of Transport may, in consultation with the Minister of the Interior, apply the provisions of sections 6 to 12, 20 and 22 to non-Israeli vessels outside Israeli territorial waters which threaten to pollute Israeli territorial waters, having regard to any international convention designed to regulate the exercise of such powers as aforesaid.

Chapter Two: Implementation

Article One: Oil Record Books

Duty to keep oil record book

5. (a) Every vessel shall be provided with an oil record book in which every operation connected with the transfer of oil from or to the vessel shall be recorded. The oil record book shall be kept by the master of the vessel in the form prescribed by regulations.

(b) The Minister of the Interior and the Minister of Transport shall by regulations prescribe the duties of the owner and the

master of the vessel in respect of the maintenance, form and keeping of the oil record book, the entries therein and the production thereof.

(c) Regulations under section 35 relating to oil record

books shall be deemed to have been made also by virtue of this section.

(d) A person who contravenes any of the provisions of this

section or any regulations thereunder shall be liable to a penalty of 10,000 shekalim.

Article Two: Inspectors

Appointment of inspectors

6. The Minister of the Interior shall appoint inspectors for the prevention of pollution of the sea by oil.

Powers of inspector

7. An inspector may enter a vessel and any other place containing installations or materials likely to pollute sea water by oil; but he shall not enter a place used solely for residential purposes, save under a court order.

Examination of samples

8. An inspector who enters a vessel or any other place by virtue of section 7 may take samples of any liquid which in his opinion is likely to be a source of pollution of the sea by oil. The aforesaid samples may be examined at a laboratory and be dealt with in any other

manner.

Inspector deemed to be police officer

9. The Minister of the Interior may empower an inspector to conduct investigations and searches in order to prevent or discover contraventions of this Ordinance or the regulations made thereunder.

In exercising such power

(1) the inspector may exercise all the powers vested in a police officer of or above the rank of inspector by section 2 of the Criminal Procedure (Evidence) Ordinance, and section 3 of that Ordinance shall apply to a statement recorded by him by virtue of the said power.

(2) the inspector shall, for the purposes of section 24(a)(1) of the Criminal Procedure (Arrest and Searches) Ordinance (New Version), 1969 be deemed to be a police officer.

Article Three: Discharge of Oil

Interpretation and powers

10. (a) For the purposes of this article:

"the Minister" means the Minister of Transport or the person appointed by him for the matter in question;

"act" includes omission.

(b) The powers of the Minister under this article shall be exercised in consultation with the Minister of the Interior.

Demand on owner of vessel to take measures

11. (a) Where any oil has been discharged, or there is in the opinion of the Minister suspicion that it will be discharged, from a vessel into the sea, the Minister may give written notice to the owner of the vessel requiring him to do all or any of the following acts, as specified in the notice, such acts being in the opinion of the Minister calculated to prevent, stop or reduce the discharge of oil into the sea:

(1) refrain from moving the vessel from the place indicated in the notice;

(2) take the vessel to a place indicated in the notice and leave it there until receipt of a permit from the Minister to take it elsewhere;

(3) prevent any unloading or loading from or onto the vessel of any cargo specified in the notice, save under a permit from the Minister;

(4) do any other act in respect of the vessel or its cargo.

(b) A notice under this section shall indicate the time at which it comes into force and the time at which each of the acts enumerated therein is to be carried out.

(c) Delivery of a notice to the agent or master of the vessel shall be deemed to be delivery to the owner of the vessel.

(d) A notice under this section shall only require a person to do acts reasonable in relation to the extent of the damage which, to the best of the Minister's knowledge, has been caused or is likely to be caused by the discharge of oil into the sea.

Adoption of measures by Minister

12. (a) Where notice under section 11 is given to the owner of a vessel and he does not carry out the acts it requires him to carry out or is unsuccessful in carrying them out, or the Minister is of the opinion that owing to the urgency of the matter he will not have time to give notice as aforesaid, the Minister may do every act deemed necessary by him to prevent, stop or reduce the discharge of oil into the sea, including the use of force to compel compliance with the requirements of the notice and the removal of the vessel to such place as he deems right. The Minister shall give the owner of the vessel notice of the adoption of such measures as aforesaid, stating his reasons.

(b) The Minister shall only take such measures under this section as are reasonable in relation to the extent of the damage which, to the best of his knowledge, has been or is likely to be caused by the discharge of oil into the sea.

Chapter Three: Fund for the Prevention of Sea Water Pollution

Establishment of Fund and regulations for its operation

13. (a) The Minister of the Interior may, with the approval of the Home Affairs and Ecology Committee of the Knesset, make regulations concerning the establishment of a "Fund for the Prevention of Sea Water Pollution" (hereinafter "the Fund") within the framework of the Ministry of the Interior.

(b) The Minister of the Interior shall by regulations, with the approval of the Home Affairs and Ecology Committee of the Knesset, prescribe procedure for the operation of the Fund.

Purpose of Fund

14. The purpose of the Fund shall be to concentrate financial resources for the fight against and prevention of pollution of sea water and the seashore and for the cleansing and inspection of the same.

Use of moneys of Fund

15. The moneys of the Fund shall be solely devoted to its purposes and shall be expended in accordance with the directions of the Minister of the Interior.

Additional resources

16. In addition to the moneys made available to the Fund from the State Budget, from fines under section 32 and from fees under section

17, the Fund may accept moneys and appropriations from any person for

the furtherance of its purposes and activities.

Regulations for imposition of fee

17. (a) The Minister of the Interior may, by regulations with the approval of the Home Affairs and Ecology Committee of the Knesset, impose a "marine environment protection fee" on owners or operators of vessels, as well as on owners or operators of installations on land or at sea from which oil might be discharged or allowed to escape into sea water.

(b) The modes of fixing the fee, its grading according to classes of vessels or apparatus, their employment, the goods therein or any other criterion, the modes of collecting it and any other arrangement regarding the fee shall be prescribed by regulations as aforesaid.

(c) The revenue from the fee shall be paid into the Fund.

Chapter Four: Responsibility, Offenses and Penalties

Fine for discharge of oil into the sea

18. (a) If any oil is discharged, or allowed to escape, whether directly or indirectly, into sea water from any vessel or from any place on land or from any apparatus used for the purpose of transferring oil from or to any vessel, to or from another vessel, or to or from any place on land, the owner or master of the vessel from which the oil is discharged or allowed to escape, or the occupier of the land or the person having charge of the apparatus, as the case may

be, shall be liable to a fine of 37,500 shekalim, and if he has once before been convicted of an offense under this section, he shall be liable to a fine as aforesaid or imprisonment for a term of one year.

(b) Where an offense under this section is committed by a body of persons, every director, partner -- other than a limited partner -- or responsible official of such body shall also be regarded as responsible for the offense and may be brought to trial and punished as if he had committed it.

Liquid deemed to be oil

19. (a) Where oil has been contained in any tanks or other spaces in any vessel, any liquid discharged or allowed to escape from those tanks or spaces shall, unless it is proved that the tanks or spaces have been cleaned of oil or that the liquid has been freed from oil by means of a separating apparatus, be deemed to be oil within the meaning of this Ordinance.

(b) In the case of proceedings against any person other than the master of a vessel, evidence of the matters referred to in subsection (a) may be given by means of a certificate signed by the master, and if the master of a vessel gives any certificate under this section which to his knowledge is false or misleading in a material particular, he shall be liable to a fine.

(c) In this section, "master of vessel" means the person named as the master in the agreement with the crew.

Criminal responsibility

20. The owner or master of a vessel who, having received a notice under section 11, does not carry out any of the acts enumerated therein within the prescribed time shall be liable to a fine of 7,500 shekalim.

Defense in matters referred to in section 18

21. It shall be a good defense in proceedings for an offense under section 18 if the accused proves:

(1) if the proceedings are against the owner or master of a vessel, that the escape of oil was due to, or that it was necessary to discharge the oil by reason of, the vessel being in collision or the happening to the vessel of some damage or accident and also, if the proceedings are in respect of an escape of oil, that all reasonable steps were taken by the master to prevent the escape;

(2) if the proceedings are against another person in respect of an escape of oil -- that all reasonable steps were taken by him to prevent the escape.

Defense in matters referred to in section 20

22. In proceedings for an offense under section 20:

(1) it shall be a good defense if the accused proves:

(a) that the carrying out of the act was prevented

by causes over which he had no control; or

(b) that the act was not carried out owing to the
necessity of saving human life;

(2) Chapter Three of the Penal Law, 1977 shall not apply.

Port manager's power to institute proceedings

23. Proceedings for an offense under this Ordinance or any
regulations made thereunder may be instituted also by a port manager.

Options of fine in lieu of trial

24. (a) Where the Attorney General or his representative or the
port manager has reason to believe that a person has committed a
finable offense, he may deliver to him a summons in the form
prescribed. In the summons, the person summoned shall be charged with
the offense indicated therein and shall be given the option of paying
a fine, of the amount prescribed, instead of being tried for the
offense.

(b) A person to whom a summons as aforesaid has been
delivered may, within thirty days from the date of delivery, pay into,
or send by post to, the court specified in the summons the fine, in the
amount prescribed, for the offense set out in the summons.

(c) So long as the Attorney General or his representative
or the port manager has not exercised his power under this section in
respect of a particular person in connection with a particular offense,

legal proceedings other than under this section may be instituted against that person for that offense, subject to the provisions of section 33. This section shall not require the Attorney General or his representative or the port manager to exercise his power thereunder.

Rates of fine and text of summons

25.

(a) The Minister of the Interior shall, by order published in Reshumot*, prescribe the text and mode of delivery of a summons under section 24 and the amount of the fine for each finable offense and for each subsequent offense committed by the same person.

(b) The amount of the fine prescribed by order as aforesaid shall not exceed 6,250 shekalim for a first offense or 12,500 for each subsequent offense; provided that in the case of an offense under section 5 the fine shall not exceed the amount prescribed in that section.

(c) The Minister of the Interior may by order as aforesaid prescribe different amounts of fines, having regard to the capacity of the vessel, the place where the offense was committed, and other circumstances.

Provision as to person not paying fine and expenses

27. (a) Where a person has not paid the fine and the amount specified in the notice of indebtedness for expenses, or has paid the fine but has not paid the whole or part of the amount specified in the notice of indebtedness for expenses, or has paid the amount specified

in the notice of indebtedness but has not paid the fine, the summons delivered to him shall be deemed to be a summons to a trial and an information served upon and delivered to him under Articles Four and Five of Chapter Four of the Criminal Procedure Law, 1965.

(b) Where a person has not paid the fine and the amount specified in the notice of indebtedness for expenses referred to in section 30(a) and the court convicts him of the offense, the court shall impose on him a fine not less than the fine prescribed for that offense under section 25 unless he proves that special circumstances, to be set out in the sentence, justify the imposition of a lesser fine, and it may charge him with the costs of the proceedings, in an amount prescribed by it, whether he appeared in court or was tried in his absence.

Security for payment of fine

28. Where a person has had a summons delivered to him under section 24 or has been charged under this Ordinance, the port manager may, on exercising his powers under the Ports Ordinance (New Version), 1971, refrain from permitting the vessel in which or in respect of which the offense was committed to leave the port area so long as security has not been given him for the payment of the fine or the expenses of cleansing in the event of conviction. The amount, form, period, terms and modes of collection of the security shall be prescribed by regulations.

Liability for expenses of cleansing

29. (a) A person convicted of an offense under section 18

shall reimburse the expenses incurred by another person:

(1) in cleansing the sea, the shore or anything polluted by oil discharged or allowed to escape in committing the offense;

(2) in locating oil discharged or allowed to escape, preventing or controlling pollution thereby and reducing the damage caused.

(b) A court which convicts a person of an offense under section 18 may in the sentence, in addition to any penalty it may impose, order him to reimburse the expenses referred to in subsection (a), whatever the amount thereof, if the person who incurred them has applied for the order.

(c) A decision as to expenses under this section shall, for the purposes of an appeal by the accused and of the collection of the amount awarded, be treated as a judgment of the same court in a civil action.

(d) Where more than one person is convicted of an offense referred to in subsection (a), the court may, in its decision under this section, impose the expenses of all of them jointly or severally or on part of them, as it may see fit in the circumstances of the case, and it may prescribe the part to be borne by each.

(e) Where the court does not give a substantive decision on an application under this section, such fact shall not derogate from the right of the person who incurred the expenses to claim them in an ordinary action.

Notice of indebtedness for expenses along with option of fine

30. (a) Where a summons with an option to pay a fine under section 24(a) is delivered to any person, the person who delivers it may attach thereto a notice of indebtedness for the amount of expenses incurred for any of the purposes mentioned in section 29. The notice of indebtedness shall name the person entitled to the amount of expenses specified therein.

(b) A person who has a notice of indebtedness delivered to him under subsection (a) may, within thirty days from the date of delivery, pay into, or send by post to, the court specified in the summons, the amount specified in the notice of indebtedness in addition to the whole amount of the fine stated in the summons, and if he does so, he shall be deemed to have pleaded guilty in court, been convicted and have undergone his punishment, and the amount paid shall be credited to the person entitled to it according to the notice of indebtedness.

Rules of procedure

31. The Minister of Justice may prescribe special rules of procedure for the purposes of sections 29 and 30.

Application of amounts of fines

32. A fine imposed for an offense under this Ordinance shall be paid into the Fund.

Proceedings against master who has left the country

33. Where an offense under this Ordinance is alleged to have been committed by the master of any vessel who thereafter departs from Israel before the expiration of the period within which proceedings for the offense might have been instituted against him, proceedings for the offense may, notwithstanding anything to the contrary in any other enactment, be instituted against him at any time within two months after the date on which he first returns to Israel.

Enforcement of payment

34. Where any fine and expenses imposed by the court in proceedings against the owner or master of a vessel for an offense under this Ordinance are not paid at the time and in the manner prescribed by the court, the court may direct that the amount not paid shall be collected by way of attachment or seizure and sale of the vessel and of its tackle, furniture and equipment. This provision shall not derogate from other powers of the court in the matter of enforcing payment.

Chapter Five: Regulations

Power to make regulations for carrying international conventions into effect

35. The Minister of the Interior and the Minister of Transport may make regulations for the carrying into effect of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, or any convention amending it to which Israel is a party, and may inter alia prescribe in such regulations that a person who contravenes the provisions thereof shall be liable to the penalty prescribed in section 18.

Application of regulations to Israeli vessel outside territorial waters

36. Notwithstanding the provision of section 1(b), regulations under section 35 shall also have effect in respect of an Israeli vessel situated anywhere outside Israeli territorial waters.

Regulations made with prior knowledge of Knesset committee

37. The Minister of the Interior and the Minister of Transport may make regulations for the implementation of the provisions of sections 3, 4, 6 to 12, 20 and 22. Prior to being made, such regulations shall be brought to the knowledge of the Home Affairs and Ecology Committee of the Knesset or of such other committee as the House Committee may decide.