
SECTION 15

**MARITIME ZONES (MARINE POLLUTION)
REGULATIONS**

[6th July, 1981]

S.I. 15 of 1981.

ARRANGEMENT OF REGULATIONS

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Regulation

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Citation. 1. These Regulations may be cited as the Maritime Zones (Marine Pollution) Regulations.

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

“discharge” includes escape;

Cap. 90. “Harbour Master” has the meaning assigned in section 2 of the Harbour Act;

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

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

“oily mixture” means a mixture of oil with water or with any other substance;

“owner”, in relation to a vessel, includes a charterer, sub-charterer, lessee or sub-lessee of the vessel;

“pollution control officer” means a pollution control officer appointed under Regulation 6;

“prohibited sea area” means an area specified in the Schedule to these Regulations;

“territorial waters” means the territorial waters of Seychelles as defined by section 3 of the Act;

“vessel” means any vessel of any nationality.

3. If any oil or oily mixture is —

Discharges of oil.

- (i) discharged into a prohibited sea area specified in the Schedule to these Regulations; or
- (ii) discharged outside a prohibited sea area so as to cause or contribute to the pollution of a prohibited sea area or any part of Seychelles,

then subject to these Regulations —

- (a) if the discharge is from a vessel, the owner or master of the vessel; or
- (b) if the discharge is from a place on land, the occupier of that place; or
- (c) if the discharge is from an apparatus used for transferring oil from or to a vessel, the person in charge of the apparatus,

is guilty of an offence and is liable to imprisonment for 5 years and to a fine of R. 200,000.

4. Where a person is charged with an offence under Regulations 3, it shall be a defence to prove —

Special defences.

- (a) that the oil or oily mixture was discharged to secure the safety of the vessel, or to prevent damage to the vessel or her cargo, or to save life;

Provided that a defence under this paragraph shall not have effect if the Court is satisfied that the discharge was not necessary for the purpose alleged in the defence or was not a reasonable step to take in the circumstances;

- (b) that the oil or oily mixture escaped as a result 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 the oil or oily mixture;

- (c) that the oil or oily mixture escaped as a result of leakage, which was not due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken to stop or reduce it; or
- (d) if the person is charged as the occupier of a place on land, that the discharge was caused by the act of a person who was in that place without the express or implied permission of the occupier.

Duty to report
discharges of oil.

5(1) If any oil or oily mixture —

- (a) is discharged from a vessel into or so as to be likely to pollute a prohibited sea area to secure the safety of the vessel, or to prevent damage to the vessel, or to save life; or
- (b) is found to be escaping, or to have escaped, into or so as to be likely to pollute a prohibited sea area from a vessel as a result of damage to the vessel or of leakage; or
- (c) is found to be escaping, or to have escaped, into a prohibited sea area from a place on land,

the owner or master of the vessel, or the occupier of the place on land, as the case may be, shall immediately report the occurrence to the Harbour Master stating —

- (i) whether it falls within paragraph (a), (b) or (c);
- (ii) the position of the discharge;
- (iii) the position of the vessel,

- (iv) the estimated amount of oil or oily mixture discharged;
- (v) the type of oil or oily mixture discharged; and
- (vi) the estimated direction and speed of the wind.

(2) Reports in terms of sub-regulation (1) may be made by radio.

6.(1) The Minister may, by notice in the *Gazette*, appoint public officers as pollution control officers.

Pollution control officers.

(2) For the purpose of enforcing these Regulations, a pollution control officer may, with or without a warrant,—

- (a) require a vessel —
 - (i) within a prohibited sea area; or
 - (ii) outside a prohibited sea area where he has reasonable grounds to suspect the vessel or a person in the vessel has contravened these Regulations,

to stop and to do anything else which will facilitate the boarding of the vessel;

- (b) board the vessel;
- (c) require to be produced, examine and make copies of any licence, logbook or other document relating to the vessel or to her cargo or any oil on board;
- (d) make any examination and enquiry which appears to him to be necessary;
- (e) take any sample of oil or other substance; and
- (f) require persons on board the vessel to do anything which appears to him to be necessary to ascertain whether an offence has been committed.

(3) Where a pollution control officer has reasonable cause to believe that an offence against these Regulations has been committed, he may, with or without warrant, —

(a) seize and detain the vessel in relation to which the offence was committed, including the equipment, stores and cargo found on board or belonging to the vessel; and

(b) arrest a person who he believes has committed such an offence.

(4) A person who in any way prevents or hinders a pollution control officer from exercising the powers conferred by this Regulation or Regulation 7 is guilty of an offence and liable to a fine of R. 75,000.

(5) In effecting the seizure of a vessel under this Regulations a pollution control officer may use such force as may be reasonably necessary.

(6) A vessel seized under this Regulation and the crew of the vessel shall be brought to Port Victoria as soon as possible.

(7) A vessel or other thing detained under this Regulation shall, as soon as possible, be delivered into the custody of the Commissioner of Police and shall be released upon demand to the owner or master if within 10 days of such delivery no proceedings are instituted against the owner or master in respect of an offence against these Regulations.

(8) Where a charge is laid the Supreme Court may make such order as it may deem fit relating to the detention or custody of the vessel or other things pending the conclusion of any proceedings instituted in respect of that vessel or those other things.

Hot pursuit.

7. Where, following the commission in a prohibited sea area of an offence against these Regulations by a vessel, which is pursued beyond the limits of a prohibited sea area, the powers conferred on pollution control officers under Regulations 6 shall be exercisable in respect of that vessel beyond the limits of the prohibited sea area, whether within or outside territorial waters, in the circumstances and to the extent recognised by international law.

Bar to action.

8.(1) No action shall lie against the Government or against a

pollution control officer for damages in any civil court for any act done or ordered to be done in good faith in pursuance of these Regulations.

(2) No prosecution of a pollution control officer, or action which may lawfully be brought against a pollution control officer, in respect of anything done in pursuance of these Regulations shall be entertained by any court unless instituted within six months from the date of the act complained of.

9. When a person is convicted of an offence against these Regulations, the Supreme Court —

Detention and costs.

- (a) may order that the vessel in relation to which the offence took place, together with its equipment, stores and cargo shall be detained until payment of any fine imposed or until execution of a bond in terms of Regulation 11; and
- (b) in addition to any other penalty or order, shall order that —
 - (i) any costs incurred in holding the vessel in detention from the time of seizure; and
 - (ii) any costs of repatriation of any member of the crew of the vessel,

shall be payable by the person convicted.

10. When a person is convicted of an offence against Regulation 3, the Supreme Court, in addition to any other penalty or order, may order that he shall pay the whole or any part of any costs incurred in restoring —

Costs of restoration.

- (a) any part of Seychelles; or
- (b) an animal, bird or other wildlife; or
- (c) any other thing,

affected by the oil or oily mixture the discharge of which caused the offence.

Bonds.

11.(1) Where a vessel is detained under Regulation 6 and a charge is laid in relation to that vessel, the owner, licensee, master or local agent of the vessel may apply to the Supreme Court for the release of the vessel on the provision of a satisfactory bond in accordance with this Regulation.

(2) The Supreme Court shall order the release of the vessel on the execution by a person approved by the Court of a satisfactory bond for an amount not less than the aggregate value of the vessel (including all equipment, stores and cargo), the expenses incurred in the detention of the vessel and in the repatriation of any member of its crew, the costs of restoration under Regulation 10 and the maximum fine to which the defendant would be liable if convicted of the offence.

(3) Notwithstanding sub-regulation (2), the Supreme Court may, where it is satisfied that there are special circumstances to justify it in doing so, order that the bond shall be less than the amount required by sub-regulation (2).

(4) A bond executed under this Regulation shall not be released unless —

- (a) the Supreme Court finds that no offence against the Act or these Regulations has been committed in relation to the vessel; or
- (b) where the Supreme Court finds that an offence against the Act or these Regulations has been committed in relation to the vessel, then within 14 days of the date of the judgment of the Court payment is made in full of any fine imposed and any costs ordered to be paid under Regulations 9(b) or 10.

(5) The amount specified in the bond shall be recoverable in full in any court of competent jurisdiction as a debt due to the Government jointly and severally by the persons by whom the bond is given, unless those persons prove that the terms of sub-regulation (4)(a) or (b) have been fulfilled.

SCHEDULE

Regulation 3

PROHIBITED SEA AREAS

The territorial waters of Seychelles
