

UNITED KINGDOM STATUTORY INSTRUMENT

SI 1980 No. 1520

**THE PREVENTION OF OIL POLLUTION ACT 1971 (BERMUDA)
ORDER 1980**

*[made by Her Majesty in Council under the Prevention of Oil Pollution Act
1971, brought into operation on 1 December 1980 and published in
Bermuda as GN 595/1980]*

1 This Order may be cited as the Prevention of Oil Pollution Act 1971 (Bermuda) Order 1980 and shall come into operation on 1st December 1980.

2 (1) The provisions of the Prevention of Oil Pollution Act 1971 referred to in paragraph (2) below, subject to the exceptions and modifications as set out in the Schedule hereto, shall extend to Bermuda.

(2) The provisions referred to in paragraph (1) above are sections 1, 2, 4 to 6, 9, 11 to 24, 26, 27, 29, 32 and 34.

3 Save as is expressly provided otherwise therein, any reference in the Schedule to this Order to any enactment of the United Kingdom shall be construed as a reference to that enactment as applying or extended to Bermuda.

SCHEDULE

Article 2

THE PREVENTION OF OIL POLLUTION ACT 1971

General provisions for preventing oil pollution

Discharge of certain oils into sea outside territorial waters

1 (1) If any oil to which this section applies or any mixture containing such oil is discharged from a ship registered in Bermuda into any part of the sea outside the territorial waters of Bermuda, 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 under this section by the Minister,

and shall also apply to any other description of oil which may be specified by regulations made by the Minister, having regard to the provisions of any Convention accepted by Her Majesty's Government in the United Kingdom in so far as it relates to the prevention of pollution of the sea by oil, or having regard to the persistent character of oil of that description and the likelihood that it would cause pollution if discharged from a ship into any part of the sea outside the territorial waters of Bermuda.

(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 mixtures containing oil or the discharge of oil 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) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding \$100,000 or on conviction on indictment to a fine.

Discharge of oil into Bermudian waters

2 (1) If any oil or mixture containing oil is discharged as mentioned in the following paragraphs into waters to which this section applies, 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, unless he proves that the discharge took place and was caused as mentioned in paragraph (b) of this subsection;
- (b) if the discharge is from a vessel but takes place in the course of a transfer of oil to or from another vessel or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other vessel or that place, the owner or master of that other vessel or, as the case may be, the occupier of that place;
- (c) if the discharge is from a place on land, the occupier of that place, unless he proves that the discharge was caused as mentioned in paragraph (d) of this subsection;
- (d) if the discharge is from a place on land and is caused by the act of a person who is in that place without the permission (express or implied) of the occupier, that person;
- (e) if the discharge takes place otherwise than as mentioned in the preceding paragraphs and is the result of any operations for the exploration of the sea-bed and subsoil or the exploitation of their natural resources, the person carrying on the operations.

(2) This section applies to the following waters, that is to say—

- (a) the whole of the sea within the seaward limits of the territorial waters of Bermuda; and
- (b) all other waters (including inland waters) which are within those limits and are navigable by sea-going ships.

(3) In this Act "place on land" includes anything resting on the bed or shore of the sea, or of any other waters to which this section applies, and also includes anything afloat (other than a vessel) if it is anchored or attached to the bed or shore of the sea or of any such waters; and "occupier", in relation to any such thing as is mentioned in the preceding provisions of this subsection, if it has no occupier, means the owner thereof, and, in relation to a railway wagon or road vehicle, means the person in charge of the wagon or vehicle and not the occupier of the land on which the wagon or vehicle stands.

(4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding \$100,000 or on conviction on indictment to a fine.

Equipment in ships to prevent oil pollution

4 (1) For the purpose of preventing or reducing discharges of oil and mixtures containing oil into the sea, the Minister may make

regulations requiring ships registered in Bermuda 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 of a type tested and approved by a person appointed by the Minister;

(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 specified in the regulations, it is submitted for testing and approval by a person so appointed.

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

(4) Every surveyor of ships shall be taken to be a person appointed by the Minister to carry out tests for the purposes of any regulations made under this section, in 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 under this section which apply to that ship are contravened, the owner or master of the ship shall be guilty of an offence.

(6) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding \$5,000 or on conviction on indictment to a fine.

Defences of owner or master charged with offence under s. 1 or s. 2

5 (1) Where a person is charged with an offence under section 1 of this Act, or is charged with an offence under section 2 of this Act as

the owner or master of a vessel, it shall be a defence to prove that the oil 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 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 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 the oil or mixture; or
- (b) that the oil 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.

Defences of other persons charged with offences under s. 2

6 (1) Where a person is charged, in respect of the escape of any oil or mixture containing oil, with an offence under section 2 of this Act—

- (a) as the occupier of a place on land; or
- (b) as a person carrying on operations for the exploration of the sea-bed and subsoil or the exploitation of their natural resources,

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.

(2) Where a person is charged with an offence under section 2 of this Act in respect of the discharge of a mixture containing oil from a place on land, it shall also, subject to subsection (3) of this section, be a defence to prove—

- (a) that the oil was contained in an effluent produced by operations for the refining of oil;
- (b) that it was not reasonably practicable to dispose of the effluent otherwise than by discharging it into waters to which that section applies; and
- (c) that all reasonably practicable steps had been taken for eliminating oil from the effluent.

(3) If it is proved that, at a time to which the charge relates, the surface of the waters into which the mixture was discharged from the place on land, or land adjacent to those waters, was fouled by oil, subsection (2) of this section shall not apply unless the court is satisfied that the fouling was not caused, or contributed to, by oil contained in any effluent discharged at or before that time from that place.

Facilities in harbour for disposal of oil residues

9 (1) The powers exercisable by the Minister in respect of any harbour in Bermuda shall include power to provide facilities for enabling vessels using the harbour to discharge or deposit oil residues (in this Act referred to as "oil reception facilities") .

(2) Any power of the Minister to provide oil reception facilities shall include power to join with any other person in providing them, and references in this section to the provision of oil reception facilities by the Minister shall be construed accordingly; and any such power shall also include power to arrange for the provision of such facilities by any other person.

(3) The Minister, or a person providing such facilities by arrangement with the Minister, may make reasonable charges for the use of the facilities, and may impose reasonable conditions in respect of the use thereof.

(4) Subject to the following provisions of this section, any oil reception facilities provided by, or by arrangement with, the Minister shall be open to all vessels using the harbour on payment of any charges, and subject to compliance with any conditions, imposed in accordance with subsection (3) of this section.

(5) Where in the case of any harbour in Bermuda it appears to the Minister, after consultation with any organization appearing to the Minister to be representative of owners of ships registered in Bermuda—

(a) if the harbour has oil reception facilities, that those facilities are inadequate; or

(b) if the harbour has not such facilities, that the harbour has need of such facilities,

the Minister may provide, or arrange for the provision of, such oil recep-

tion facilities.

(6) Notwithstanding the provisions of subsection (4) of this section, the Minister, or a person providing such facilities by arrangement with the Minister, shall not be obliged to make those facilities available for use by tankers, or for the reception of oil residues discharged for the purpose of enabling a vessel to undergo repairs; and the requirements of tankers, and the reception of oil residues so discharged, shall be disregarded by the Minister in exercising his powers under subsection (5) of this section.

(7) Nothing in this section shall be construed as requiring the Minister to allow untreated ballast water (that is to say, ballast water which contains oil and has not been subjected to an effective process for separating the oil from the water) to be discharged into any oil reception facilities provided by, or by arrangement with, him; and the Minister shall exercise his powers under subsection (5) of this section accordingly,

(9) Subsections (1), (2) and (5) of this section shall have effect in relation to arrangements for disposing of oil residues discharged or deposited by vessels using a harbour's oil reception facilities, and to the making of such arrangements, as those subsections have effect in relation to oil reception facilities and the provision of such facilities.

Duty to report discharge of oil into waters of harbours

11 (1) If any oil or mixture containing oil—

- (a) is discharged from a vessel into the waters of a harbour in Bermuda; or
- (b) is found to be escaping or to have escaped from a vessel into any such waters; or
- (c) is found to be escaping or to have escaped into any such waters 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 forthwith report the occurrence to the harbour master, or, if the harbour has no harbour master, to the Minister.

(2) A report made under subsection (1) of this section by the owner or master of a vessel shall state whether the occurrence falls within paragraph (a) or paragraph (b) of that subsection.

(3) If a person fails to make a report as required by this section he shall be liable on summary conviction to a fine not exceeding \$600.

Shipping casualties

Shipping casualties

12 (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 from the ship will or may cause pollution on a large scale in Bermuda or in the waters in or adjacent to Bermuda up to the seawards limits of territorial waters; and
 - (c) in the opinion of the Minister the use of the powers conferred by this section is urgently needed.
- (2) For the purpose of preventing or reducing oil pollution, or the risk of oil 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 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 oil pollution, or the risk of oil 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 authorized 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 16 of this Act are without prejudice to any rights or powers of Her Majesty's Government in Bermuda 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—

- (a) does not constitute contempt of court; and
- (b) does not in any circumstances make the Government of Bermuda liable in any civil proceedings.

(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.

Right to recover in respect of unreasonable loss or damage

13 (1) If any action duly taken by a person in pursuance of a direction given to him under section 12 of this Act, or any action taken under subsection (4) or (5) of that section—

- (a) was not reasonably necessary to prevent or reduce oil pollution, or risk of oil 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 oil 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 Admiralty jurisdiction of the Supreme Court of Bermuda shall include jurisdiction to hear and determine any claim arising under this section.

Offences in relation to s. 12

- 14 (1) If the person to whom a direction is duly given under section 12 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 12 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 summary conviction to a fine not exceeding \$100,000, or on conviction on indictment to a fine.

Service of directions under s. 12

15 (1) If the Minister is satisfied that a company or other body is not one to whom section 1 of the External Companies (Jurisdiction in Actions) Act 1885 [*title 8 item 74*] or section 30 of the Companies Act 1923 [*repealed*] applies so as to authorize the service of a direction on that body under that section, he may give a direction under section 12 of this Act—

(a) to that body, as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship; or

(b) to that body, as a salvor, by serving the direction on the person in charge of the salvage operations.

(2) For the purpose of giving or serving a direction under section 12 of this Act to or on any person on a ship, a person acting on behalf of the Minister shall have the right to go on board the ship.

Application of ss. 12 to 15 to certain foreign and other ships

16 (1) Her Majesty may by Order in Council provide that sections 12 to 15 of this Act, together with any other provisions of this Act, shall apply to a ship—

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

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

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) An Order in Council under subsection (1) of this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient.

(3) Except as provided by an Order in Council under subsection (1) of this section, no direction under section 12 of this Act shall apply to a ship which is not registered in Bermuda and which is for the

time being outside the territorial waters of Bermuda, and no action shall be taken under subsection (4) or (5) of section 12 of this Act as respects any such ship.

(4) No direction under section 12 of this Act shall apply to any vessel of Her Majesty's navy or to any Government ship (within the meaning of section 80 of the Merchant Shipping Act 1906 and no action shall be taken under subsection (4) or (5) of that section as respects any such vessel or ship.

Enforcement

Oil records

17 (1) The Minister may make regulations requiring oil record books to be carried in ships registered in Bermuda and requiring the master of any such ship to record in the oil record book carried by it—

- (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 oil cargo; or
 - (ii) the transfer of oil cargo during a voyage; or
 - (iii) the discharge of oil cargo; or
 - (iv) the ballasting of oil 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 oil residues;
- (b) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the

safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life:

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

(2) The Minister may make regulations requiring the keeping of records relating to the transfer of oil to and from vessels while they are within the seaward limits of the territorial waters of Bermuda; and the requirements of any regulations made under this subsection shall be in addition to the requirements of any regulations made under subsection (1) of this section.

(3) Any records required to be kept by regulations made under subsection (2) of this section shall, unless the vessel is a barge, be kept by the master of the vessel, and shall, if the vessel is a barge, be kept in so far as they relate to the transfer of oil to the barge, by the person supplying the oil and, in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.

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

- (a) prescribe the form of the oil 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 that 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 the books or records after their transmission to such a place or person.

(5) If any ship fails to carry such an oil record book as it is required to carry under this section the owner or master shall be liable on summary conviction to a fine not exceeding \$1,000; if any person fails to comply with any requirements imposed on him by or under this section, he shall be liable on summary conviction to a fine not exceeding \$1,000; and if any person makes an entry in any oil 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 summary conviction to a fine not exceeding \$1,000, or imprisonment for a term not exceeding six months, or both, or on conviction on indictment to fine or to imprisonment for a term not exceeding two years or both.

(6) In any proceedings under this Act—

- (a) any oil record book carried or record kept in pursuance of regulations made under this section shall be admissible as evidence of the facts stated in it;
- (b) any copy of an entry in such an oil 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 be admissible as evidence of the facts stated in the entry;
- (c) any document purporting to be an oil record book carried or record kept in pursuance of regulations made under this section, or purporting to be such a certified copy as is mentioned in the preceding paragraph, shall, unless the contrary is proved, be presumed to be such a book, record or copy, as the case may be.

Powers of inspection

18 (1) The Minister may appoint any person as an inspector to report to him—

- (a) whether the prohibitions, restrictions and obligations imposed by virtue of this Act (including prohibitions so imposed by the creation of offences under any provision of this Act) have been complied with;
- (b) what measures (other than measures made obligatory by regulations made under section 4 of this Act) have been taken to prevent the escape or oil and mixtures containing oil;
- (c) whether the oil reception facilities provided in harbours are adequate,

and any such inspector may be so appointed to report either in a particular case or in a class of cases specified in his appointment.

(2) Every surveyor of ships shall be taken to be a person appointed generally under the preceding subsection to report to the Minister in every kind of case falling within that subsection.

(3) Section 729 of the Merchant Shipping Act 1894 (powers of inspectors) shall apply to persons appointed or taken to be appointed under subsection (1) of this section as it applies to the inspectors referred to in that section and shall, as so applying, have effect as if—

- (a) in paragraph (a) of subsection (1) of that section, the reference to a ship included any vessel, and the reference to that Act were a reference to this Act and any regulations made under this Act; and
- (b) any power under that section to inspect premises included power to inspect any apparatus used for transferring off.

(4) Any power of an inspector, under section 729 as applied by the preceding subsection, to inspect a vessel shall include power to test any equipment with which the vessel is required to be fitted in pursuance of regulations made under section 4 of this Act.

(5) Any power of an inspector, under section 729 as so applied, to require the production of any oil record book required to be carried or records required to be kept in pursuance of regulations made under section 17 of this Act shall include power to copy any entry therein and require the master to certify the copy as a true copy of the entry; and in subsection (3) of section 729, as so applied, the reference to making a declaration shall be construed as a reference to the certification of such a copy.

(6) Without prejudice to any powers exercisable by virtue of the preceding provisions of this section, in the case of a vessel which is for the time being in a harbour in Bermuda the harbour master, and any other person appointed by the Minister under this subsection (either generally or in relation to a particular vessel), shall have power —

- (a) to go on board and inspect the vessel or any part thereof, or any of the machinery, boats, equipment or articles on board the vessel, for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or a mixture containing oil from the vessel into the waters of the harbour;
- (b) to require the production of any oil record book required to be carried or records required to be kept in pursuance of regulations made under section 17 of this Act; and
- (c) 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.

(7) A person exercising any powers conferred by subsection (6) of this section shall not unnecessarily detain or delay the vessel from proceeding on any voyage.

(8) If any person fails to comply with any requirement duly made in pursuance of paragraph (b) or paragraph (c) of subsection (6) of this section, he shall be liable on summary conviction to a fine not exceeding \$25; and if any person wilfully obstructs a person acting in the exercise of any power conferred by virtue of this section, he shall be liable on summary conviction to a fine not exceeding \$200.

Prosecutions

19 (1) Proceedings for an offence under this Act may, in Bermuda be brought only—

- (a) by or with the consent of the Attorney-General; or
- (b) if the offence is one to which subsection (2) of this section applies, by the Minister; or
- (c) unless the offence is one mentioned in paragraphs (b), (c) or (d) of subsection (2) of this section, by the Minister or a person authorized by any general or special direction of the Minister.

(2) This subsection applies to the following offences —

- (a) any offence under section 2 of this Act which is alleged to have been committed by the discharge of oil, or a mixture containing oil, into the waters of a harbour in Bermuda;
- (b) any offence in relation to such a harbour under section 11 of this Act;
- (c) any offence under section 17 of this Act relating to the keeping of records of the transfer of oil within such a harbour; and
- (d) any offence under section 18 of this Act in respect of a failure to comply with a requirement of a harbour master, or in respect of obstruction of a harbour master acting in the exercise of any power conferred by virtue of that section.

(4) Where, immediately before the date on which (apart from this subsection) the time for bringing summary proceedings for an offence under this Act would expire, the person to be charged is outside Bermuda the time for bringing the proceedings shall be extended until the end of the period of two months beginning with the date on which he next enters Bermuda.

(5) Proceedings for any offence under this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against a person at any place at which he is for the time being.

Enforcement and application of fines

20 (1) Where a fine imposed by a court in proceedings against the owner or master of a vessel for an offence under this Act is not paid at the time ordered by the court, the court shall, in addition to any other powers for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or pouncing and sale of the vessel, her tackle, furniture and apparel.

(2) Where a person is convicted of an offence under section 1 or section 2 of this Act, and the court imposes a fine in respect of the offence, then if it appears to the court that any person has incurred, or will incur, expenses in removing any pollution, or making good any damage, which is 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 those expenses.

Enforcement of Conventions relating to oil pollution

21 (1) Her Majesty may by Order in Council empower such persons as may be designated by or under the Order to go on board any Convention ship while the ship is within a harbour in Bermuda, and to require production of any oil record book required to be carried in accordance with the Convention.

(2) An Order in Council under this section may, for the purposes of the Order, and with any necessary modifications, apply any of the provisions of this Act relating to the production and inspection of oil record books and the taking of copies of entries therein, and to the admissibility in evidence of such oil record books and copies, including any provisions of the Merchant Shipping Act 1894 applied by those provisions, and including any penal provisions of this Act in so far as they relate to those matters.

(3) Her Majesty, if satisfied that the government of any country has accepted, or denounced, the Convention, or that the Convention extends, or has ceased to extend, to any territory, may by Order in Council made under this subsection as it applies in the United Kingdom make a declaration to that effect.

(4) In this section "the Convention" means any Convention accepted by Her Majesty's Government in the United Kingdom in so far as it relates to the prevention of pollution of the sea by oil; and "Convention ship" means a ship registered in —

- (a) a country the government of which has been declared by an Order in Council under the preceding subsection as it applies in the United Kingdom to have accepted the Convention, and has not been so declared to have denounced it; or
- (b) a 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.

Miscellaneous and supplementary

Power to apply certain provisions to ships registered outside Bermuda

22 (1) Her Majesty may by Order in Council direct that, subject to such exceptions and modifications as may be specified in the Order, any regulations made under section 4 or section 17(1) of this Act shall apply to ships registered in countries and territories other than Bermuda at any time when they are in a harbour in Bermuda, or are within the seaward limits of the territorial waters of Bermuda while on their way to or from a harbour in Bermuda.

(2) An Order in Council 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 Her Majesty 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, Her Majesty may by Order in Council 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 regulation shall by virtue of an Order in Council under this section apply to any ship as being within a harbour in Bermuda, or on her way to or from such a harbour, if the ship would not have been

within the harbour, or, as the case may be, on her way to or from the harbour, 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.

Power of Minister to grant exemptions

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

Application of Act to Government ships

24 (1) The provisions of this Act do not apply to vessels of Her Majesty's navy, nor to Government ships in the service of the Minister while employed for the purposes of Her Majesty's navy.

(2) Subject to subsection (1) of this section and subsection (4) of section 16 of this Act —

(a) provisions of this Act which are expressed to apply only to ships registered in Bermuda apply to Government ships so registered and also to Government ships not so registered but held for the purposes of Her Majesty's Government in Bermuda;

(b) provisions of this Act which are expressed to apply to vessels generally apply to Government ships.

(3) In this section "Government ships" has the same meaning as in section 80 of the Merchant Shipping Act 1906.

Annual report

26 The Minister shall, as soon as possible after the end of each calendar year, make a report on the exercise and performance of his functions under this Act during that year, which shall include such observations as he may think fit to make on the operation during that year of this Act and of any Convention accepted by Her Majesty's Government in the United Kingdom in so far as it relates to the prevention of pollution of the sea by oil, and the Minister shall lay a copy of every such report before the House of Assembly and the [Senate].

General provisions as to Orders in Council, regulations and orders

27 (1) Any power to make regulations under this Act shall be exercisable by statutory instrument.

(2) Any statutory instrument made by virtue of this Act, other than an Order in Council under section 16, 21 or 22 shall be subject to the negative resolution procedure as defined in the Statutory Instruments Act 1977 [title 1 item 3].

(3) Where a power to make regulations is conferred by any provision of this Act, regulations made under that power may be made with

respect to all or with respect to any one or more of the classes of vessel or other matters to which the provision relates, and different provision may be made by any such regulations for different classes of vessel or otherwise for different classes of case or different circumstances.

Interpretation

29 (1) In this Act —

"barge" includes a lighter and any similar vessel;

"harbour master" includes any person specially appointed by the Minister for the purpose of enforcing the provisions of this Act in relation to the harbour;

"Minister" means the Minister charged with the responsibility for marine and air services;

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

"oil reception facilities" has the meaning assigned to it by section 9(1) of this Act;

"oil residues" means any waste consisting of, or arising from, oil or a mixture containing oil;

"outside the territorial waters of Bermuda" means outside the seaward limits of those waters;

"place on land" has the meaning assigned to it by section 2 (3) of this Act;

"sea" includes any arm of the sea;

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

(2) Any reference in any provision of this Act to a mixture containing oil shall be construed as a reference to any mixture of oil (or, as the case may be, of oil of a description referred to in that provision) with water or with any other substance.

(3) Any reference in the provisions of this Act other than section 11 to the discharge of oil or a mixture containing oil, or to its being

discharged, from a vessel, place or thing, except where the reference is to its being discharged for a specified purpose, includes a reference to the escape of the oil or mixture, or (as the case may be) to its escaping, from that vessel, place or thing.

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

(5) Any power conferred by this Act to test any equipment on board a vessel shall be construed as including a power to require persons on board the vessel to carry out such work as may be requisite for the purpose of testing the equipment; and any provision of this Act as to submitting equipment for testing shall be construed accordingly.

(6) Subject to the preceding subsections, expressions used in this Act and in the Merchant Shipping Act 1894, have the same meanings in this Act as in that Act.

Saving for other restrictions, rights of action etc.

32 Subject to section 18 of the Interpretation Act 1978 (duplicated offences) as it applies in the United Kingdom nothing in this Act shall affect any restriction imposed by or under any other enactment, whether contained in a public general Act or in a local or private Act, or shall derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

Short title

34 (1) This Act may be cited as the Prevention of Oil Pollution Act 1971.

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