



The Merchant Shipping (Oil Pollution) Act, 1976

ARRANGEMENT OF SECTIONS

PART I

Preliminary

Section

1. Short title and commencement.
2. Interpretation.

PART II

Prevention of Oil Pollution

3. Interpretation of Part II
4. Discharge of certain oils by Bahamian ships
5. Discharge of oil into Bahamian waters
6. Discharge of certain oils from pipe-lines and exploration etc. areas
7. Equipment in ships to prevent oil pollution
8. Defences of persons charged under S.4 or S.5
9. Defences of other persons charged under S.5 or S.6
10. Protection of acts done in exercise of certain powers
11. Discharge of certain ballast water into ports
12. Facilities in port for disposal of oil residues
13. Restrictions on transfer of oil at night
14. Duty to report discharge of oil into waters of ports

PART III

Shipping Casualties

15. Shipping casualties
16. Right to recover in respect of unreasonable loss or damage
17. Offences in relation to S.15
18. Service of directions under S.15
19. Application of SS.15 to 18 to certain foreign and other ships

PART IV

Civil Liability for Oil Pollution

20. Liability for oil pollution
21. Exceptions from liability under S.20
22. Restriction of liability for oil pollution
23. Limitation of liability under S.20
24. Limitation actions
25. Restriction on enforcement of claims after establishment of limitation fund
26. Concurrent liabilities of owner and others
27. Establishment of limitation fund outside The Bahamas
28. Cases excluded from sections 23 to 27
29. Extinguishment of claims
30. Compulsory insurance against liability for pollution
31. Issue of certificate by Minister
32. Rights of third parties against insurers
33. Jurisdiction
34. Government ships
35. Liability for cost of preventive measures where S.20 does not apply
36. Saving for recourse actions

PART V

The International Oil Pollution Compensation Fund

37. Interpretation of Part V
38. Contribution of importers of oil and others
39. Power to obtain information
40. Liability of the Fund
41. Indemnification where damage is caused by Fund Convention ship
42. Jurisdiction
43. Extinguishment of claims
44. Subrogation and rights of recourse

PART VI

Oil Tankers

45. Interpretation of Part VI
46. Oil tanker construction rules
47. Restrictions on tankers sailing
48. Restrictions on uncertificated tankers

PART VII

Enforcement

49. Oil records
50. Powers of inspection
51. Proceedings

52. Enforcement and application of fines
53. Enforcement of Conventions

PART VIII

Supplemental

54. Power to apply certain provisions to foreign ships
55. Offences by bodies corporate
56. Testing of equipment
57. Franc equivalent
58. Applied regulations
59. Repeal of No. 4 of 1968

FIRST SCHEDULE — Overall limitation on Liability of Fund

SECOND SCHEDULE — Oil tankers

THIRD SCHEDULE — Certificated tankers

FOURTH SCHEDULE — Applied Regulations



An Act to make provision concerning oil pollution of navigable waters by ships; to provide for the civil liability for oil pollution by merchant ships; to give effect to certain International Conventions relating to pollution of the sea; and for matters connected with and incidental to the foregoing.

BE it enacted by The Queen's Most Excellent Majesty, by and Enactment. with the advice and consent of the Senate and the House of Assembly of the Commonwealth of The Bahamas, and by the authority of the same, as follows:—

PART I

Preliminary

1. This Act may be cited as the Merchant Shipping (Oil Pollution) Act, 1976, and shall come into operation on such date as Short title and commencement. the Minister may appoint by notice in the *Gazette*, and the Minister may so appoint different dates for different Parts or sections of this Act.

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

“Bahamian ship” means a ship for the time being registered under the Shipping Act;

“Bahamian waters” means all areas of the sea subject to the jurisdiction of The Bahamas, and includes territorial waters, archipelagic waters and internal waters navigable by seagoing ships;

“barge” includes a lighter and any similar vessel;

“contravene”, in relation to any provision, includes a failure to comply with that provision;

“damage” includes loss;

“the Director” means the Director of Maritime Affairs of the Government;

“foreign” means —

- (a) in relation to a ship, registered under a law of a country other than The Bahamas; and
- (b) in relation to a country or a court, means a country other than The Bahamas, or court in such a country;

“francs” means a unit of 65.5 milligrammes of gold of millesimal fineness 900;

“Government” means the Government of The Bahamas;

“Government ship” means any warship and any other ship for the time being used by the Government of any State for other than commercial purposes;

“the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage opened for signature in Brussels on 29th November, 1969;

“Liability Convention country” means a country to which the Liability Convention applies;

“the Minister” means the Minister for the time being responsible for Maritime Affairs;

“mixture” means any mixture of oil (or as the case may be, of oil of a particular description referred to in the provision concerned) with water or with any other substance;

“occupier”, in relation to a place on land means the person in actual occupation of that place or, if there be no such person, the owner thereof;

“oil” except in Part V and VI means oil of any description, and includes spirit produced from oil of any description, and also includes coal tar;

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

“owner”, in relation to a registered ship, means the person registered as its owner, except that in relation to a ship owned by a State and operated by a person registered as the operator of the ship, it means the person so registered;

“Part” means a Part of this Act;

“persistent oil” includes crude oil, heavy diesel oil, fuel oil, lubricating oil and whale oil;

“petroleum-spirit” means such petroleum as when tested in a manner approved by the Minister responsible * for petroleum, gives off an inflammable vapour at a temperature of less than seventy-three degrees Fahrenheit;

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

“port” means any area in The Bahamas constituted and defined as a port area under the Port Authorities Act, or constituted as a port or harbour under any other law;

port authority”, in relation to a port, means a port authority appointed for the port under the Port Authorities Act or having control over the port under any other law;

“sea” includes any estuary or arm of the sea;

“section” means a section of this Act;

“the Shipping Act” means the Merchant Shipping Act, 1976;

“terminal” means any installation or site for the storage of oil in bulk which is capable of receiving oil from sea-borne transportation, including any facility situated offshore and linked to any such site;

“ton” means a ton of 2,240 pounds;

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

(2) In this Act, except where the context otherwise requires or another meaning is specified, “gross tonnage”, “inspector”, “master”, “registrar”, “ship”, “surveyor” and “vessel” have the meanings assigned to them in the Shipping Act.

(3) Any reference in this Act, other than in section 14, to the discharge of oil or any mixture, 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) References in this Act to the area of any country includes, in relation to The Bahamas, Bahamian waters, and in relation to any other country, the territorial waters of that country.

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

PART II

Prevention of Oil Pollution

3.—(1) In this Part “harbour master” includes a dock master or pier master and any person specially appointed by a port Interpretation of Part II.

authority for the purpose of enforcing the provisions of this Part in relation to the port.

(2) For the purposes of this Part relating to the discharge of oil or a mixture from a vessel, any floating craft (other than a vessel) which is attached to a vessel shall be treated as part of that vessel.

Discharge of
certain oils
Bahamian
ships

4.—(1) If any oil to which this section applies or any mixture thereof is discharged from a Bahamian ship into any part of the sea outside Bahamian waters, the owner or master of the ship shall, subject to the provisions of this Part, 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 under this section, having regard to the provisions of any Convention accepted by the Government 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 Bahamian waters.

(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 thereof 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 conviction on information to a fine not exceeding 120,000 dollars.

Discharge of oil
into Bahamian
waters

5.—(1) If any oil or mixture is discharged as mentioned in the following paragraphs into Bahamian waters, then, subject to the provisions of this Part, 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 or

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) A person guilty of an offence under this section shall be liable on conviction on information to a fine not exceeding 120,000 dollars.

6.—(1) If any oil to which section 4 applies, or any mixture thereof, is discharged into any part of the sea —

- (a) from a pipe-line; or
- (b) (otherwise than from a ship) as the result of any operation for the exploration of the sea-bed and subsoil or the exploitation of their natural resources in a designated area,

Discharge of certain oils from pipe-lines and exploration etc. areas.

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

(2) In this section, "designated area" means any area of the sea-bed and subsoil thereof in which a person is authorized by the Government to carry on any operation relating to the exploration for, or exploitation of, natural gas or oil.

(3) Any person guilty of an offence under this section shall be liable on conviction on information to a fine not exceeding 120,000 dollars.

7.—(1) For the purpose of preventing or reducing discharges of oil and mixtures into the sea, the Minister may make regulations

Equipment in ships to prevent oil pollution.

requiring Bahamian ships or specified classes of Bahamian ships, to be fitted with such equipment and to comply with such other requirements as may be specified in the regulations.

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

- (a) shall not be installed in a ship to which the regulations apply unless it is 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 time 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 in the regulations.

(4) Every surveyor 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.

(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 and liable on summary conviction to a fine not exceeding 2,000 dollars.

Defences of
persons
charged under
S.4 or S.5.

8.—(1) Where a person is charged with an offence under section 4, or is charged with an offence under section 5 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.

9.—(1) Where a person is charged, in respect of the escape of any oil or mixture with an offence under section 5 or 6—

Defences of other persons charged under S.5 or S.6.

- (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 exploration of their natural resources; or
- (c) as the owner of a pipe-line;

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

(2) Where a person is charged with an offence under section 5 in respect of the discharge of a mixture 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; and
- (b) that it was not reasonably practicable to dispose of the effluent otherwise than by discharging it into the water concerned; 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 a mixture was discharged from a 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.

10. Where any oil or mixture is discharged in consequence of—

- (a) the exercise of any power conferred by section 229 or 230 of the Shipping Act; or
- (b) the exercise, for the purpose of preventing an obstruction or danger to navigation, of any power to dispose of sunk, stranded or abandoned vessels which is exercisable by a port authority under any other law,

Protection of acts done in exercise of certain powers.

and apart from this subsection the authority exercising the power, or a person employed by or acting on behalf of the authority, would be guilty of an offence under section 4 or section 5 in respect of that discharge, the authority or person shall not be convicted of that offence unless it is shown that they or he failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping or reducing the discharge.

Discharge of
certain ballast
water into
ports.

11. A port authority may appoint a place within their jurisdiction where the ballast water of vessels in which a cargo of petroleum-spirit has been carried may be discharged into the waters of the port, at such times, and subject to such conditions, as the authority may determine; and, where a place is so appointed, the discharge of ballast water from such a vessel shall not constitute an offence under section 5 if the ballast water is discharged at that place, and at a time and in accordance with the conditions so determined, and the ballast water contains no oil other than petroleum-spirit.

Facilities in
port for disposal
of oil residues.

12.—(1) The powers exercisable by a port authority in respect of any port shall include power to provide facilities for enabling vessels using the port to discharge or deposit oil residues (in this section referred to as "oil reception facilities")

(2) Any power of a port authority 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 a port authority 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) A port authority providing oil reception facilities or a person providing such facilities by arrangement with a port authority, 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, a port authority shall be open to all vessels using the port 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 port it appears to the Minister, after consultation with the port authority and with any organization appearing to the Minister to be representative of owners of Bahamian ships —

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

- (b) if the port has no such facilities, that the port has need of such facilities,

the Minister may direct the port authority to provide, or arrange for the provision of, such oil reception facilities as may be specified in the direction.

(6) Notwithstanding the provisions of subsection (4) of this section, a port authority providing oil reception facilities, or a person providing such facilities by arrangement with a port authority, 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 a port authority 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, the authority and the Minister shall exercise his powers under subsections (5) of this section accordingly.

(8) Any port authority failing to comply with any direction given under subsection (5) of this section within the period specified in the direction, or within any extended period allowed by the Minister (whether before or after the end of the period so specified), shall be guilty of an offence, and liable on summary conviction to a fine not exceeding 25 dollars for each day during which the default continues, from the day after the end of the period specified in the direction, or any extended period allowed by the Minister, as the case may be, until the last day before that on which the facilities are provided in accordance with the direction.

(9) Subsections (1), (2), (5) and (8) of this section shall have effect in relation to arrangements for disposing of oil residues discharged or deposited by vessels using a port'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.

13.—(1) No oil shall be transferred between sunset and sunrise to or from a vessel in any port unless the requisite notice has been given in accordance with this section or the transfer is for the purposes of a fire brigade. Restrictions on transfer of oil at night.

(2) A general notice may be given to the harbour master of a port that transfers of oil between sunset and sunrise will be frequently carried out at a place in the port within such period, not ending later than twelve months after the date on which the notice is given, as is specified in the notice; and if such a notice is given it

shall be the requisite notice for the purposes of this section as regards transfers of oil at that place within the period specified in the notice.

(3) Subject to subsection (2) of this section, the requisite notice for the purposes of this section shall be a notice given to the harbour master not less than three hours nor more than ninety-six hours before the transfer of oil begins.

(4) In the case of a port which has no harbour master, references in this section to the harbour master shall be construed as references to the port authority.

(5) If any oil is transferred to or from a vessel in contravention of this section, the master of the vessel, and, if the oil is transferred from or to a place on land, the occupier of that place, shall be guilty of an offence and liable on summary conviction to a fine not exceeding 250 dollars.

Duty to report discharge of oil into waters of ports.

14.—(1) If any oil or mixture —

- (a) is discharged from a vessel into the waters of a port; 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 port has no harbour master, to the port authority, and such person or authority shall report the discharge by the quickest possible means to the Director and to the Minister of Health or his representative.

(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 guilty of an offence and liable on summary conviction to a fine not exceeding 500 dollars.

PART III

Shipping Casualties

Shipping casualties.

15.—(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 The Bahamas or in Bahamian 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 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 the 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 writing in that behalf by the Minister.

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

(7) The provisions of this section and of section 19 are without prejudice to any rights or powers of the Government 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 a person who arrested the ship or who has it in charge after arrest 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.

16.—(1) If any action duly taken by a person in pursuance of a direction given to him under section 15, 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 expenses incurred, or damage suffered as a result of the action,

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

(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 shall include jurisdiction to hear and determine any claim arising under this section.

17.—(1) If any person to whom a direction is duly given under section 15 contravenes any requirement of the direction, he shall be guilty of an offence. Offences in relation to S.15.

- (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 15;
 - (b) acting in compliance with a direction under that section; or
 - (c) acting under subsection (4) or (5) of that section,

he shall be guilty of an offence.

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

(4) A person guilty of an offence under this section shall be liable on conviction on information to a fine not exceeding 120,000 dollars.

18.—(1) If the Minister is satisfied that a company or other body is not one to which any provision of a law relating to the service of notices on a company or other body applies so as to authorise the service of a direction on that body under such provision, he may give a direction under section 15 — Service of directions under S.15.

- (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 15 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.15 to 18 to
certain foreign
and other ships.

19.—(1) The Minister may by Order published in the *Gazette* provide that sections 15 to 18, together with any other provisions of this Act, shall apply to a ship —

(a) which is not a Bahamian ship; and

(b) which is for the time being outside Bahamian waters, 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 under subsection (1) of this section may contain such transitional and other consequential provisions as appear to the Minister to be expedient.

(3) Except as provided by an Order under subsection (1) of this section, no direction under section 15 shall apply to a ship which is not a Bahamian ship and which is for the time being outside Bahamian waters, and no action shall be taken under subsection (4) or (5) of section 15 of this Act as respects any such ship.

(4) No direction under section 15 of this Act shall apply to any Government ship, and no action shall be taken under subsection (4) or (5) of that section as respects any such vessel or ship.

PART IV

Civil Liability for Oil Pollution

Liability for oil
pollution.

20.—(1) Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by the ship (whether as part of the cargo or otherwise) is discharged from the ship, the owner of the ship shall be liable, except as otherwise provided by this Act —

(a) for any damage caused in the area of The Bahamas by contamination resulting from the discharge; and

(b) for the cost of any measures reasonably taken after the discharge for the purpose of preventing or reducing any such damage in the area of The Bahamas; and

(c) for any damage caused in the area of The Bahamas by any measures so taken.

(2) Where a person incurs a liability under subsection (1) of this section he shall also be liable for any damage or cost for which he would be liable under that subsection if the references therein to the area of The Bahamas included the area of any other Liability Convention country.

(3) Where persistent oil is discharged from two or more ships and—

- (a) a liability is incurred under this section by the owner of each of them; but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

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

(5) The Contributory Negligence Act shall apply in relation to Ch. 68. any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

21. The owner of a ship from which persistent oil has been discharged shall not incur any liability under section 20 if he proves Exceptions from liability under S.20. that the discharge—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
- (b) was due wholly to anything done or left undone by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

22. Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by the ship is discharged then, whether or not the owner incurs a liability under section 20— Restriction of liability for oil pollution.

- (a) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned therein; and
- (b) no servant or agent of the owner nor any person performing salvage operations with the agreement of the owner shall be liable for any such damage or cost.

23.—(1) Where the owner of a ship incurs a liability under section 20 by reason of a discharge which occurred without his actual fault or privity — Limitation of liability under S.20.

- (a) section 249 of the Shipping Act shall not apply in relation to that liability; but
- (b) he may limit that liability in accordance with the provisions of this Act, and if he does so his liability (that is to say, the aggregate of his liability under section 20 resulting from the discharge) shall not exceed 2,000 francs for each ton of the ship's tonnage nor (where that tonnage would result in a greater amount) 210 million francs.

(2) For the purposes of this section the tonnage of a ship shall be ascertained as follows:—

- (a) if the ship is a Bahamian ship or a ship to which an Order under section 64 of the Shipping Act applies, its tonnage shall be taken to be its registered tonnage increased, where a deduction has been made for engine room space in arriving at that tonnage, by the amount of that deduction,
- (b) if the ship is not such a ship as is mentioned in the preceding paragraph and it is possible to ascertain what would be its registered tonnage if it were registered in The Bahamas that paragraph shall apply (with the necessary modifications) as if the ship were so registered;
- (c) if the ship is not such a ship as is mentioned in paragraph (a) of this subsection and is of a description with respect to which no provision is for the time being made by regulations under section 62 of the Shipping Act, its tonnage shall be taken to be 40 per cent of the weight (expressed in tons) of oil which the ship is capable of carrying;
- (d) if the tonnage of the ship cannot be ascertained in accordance with the preceding paragraphs, a surveyor shall, if so directed by the court, certify what, on the evidence specified in the direction, would in his opinion be the tonnage of the ship if ascertained in accordance with those paragraphs, and the tonnage stated in his certificate shall be taken to be the tonnage of the ship.

Limitation
actions

24.—(1) Where the owner of a ship has, or is alleged to have, incurred a liability under section 20 he may apply to the Supreme Court for the limitation of that liability to an amount determined in accordance with section 23.

(2) If on an application under this section the Court finds that the applicant has incurred a liability and is entitled to limit it, the Court shall, after determining the limit of the liability and directing payment into court of the amount of that limit —

- (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
- (b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims subject to the following provisions of this section.

(3) No claim shall be admitted in proceedings under this section unless it is made within such time as the Court may direct or such further time as the Court may allow.

(4) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends, —

- (a) by the owner or the person referred to in section 32 as “an insurer”; or
- (b) by a person who has, or is alleged to have incurred a liability, otherwise than under section 20, for the damage or cost and who is entitled to limit his liability in connexion with the ship by virtue of the Shipping Act,

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(5) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measure.

(6) The Court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a foreign court.

25.—(1) Where the Supreme Court has found that a person who has incurred a liability under section 20 is entitled to limit that liability to any amount and he has paid into Court a sum not less than that amount —

- (a) the Court shall order the release of any ship or other property arrested in connexion with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and

Restriction on enforcement of claims after establishment of limitation fund.

- (b) no judgement or decree for any such claim shall be enforced, except so far as it is for costs,

if the sum paid into Court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 24 had been taken.

Concurrent liabilities of owner and others.

26. Where, as a result of any discharge of persistent oil from a ship, the owner of the ship incurs a liability under section 20 and any other person incurs a liability otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) of that section, then if —

- (a) the owner has been found, in proceedings under section 24, to be entitled to limit his liability to any amount and has paid into Court a sum not less than that amount; and
- (b) the other person is entitled to limit his liability in connexion with the ship by virtue of the Shipping Act,

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into Court, no further steps shall be taken in the proceedings except in relation to costs.

Establishment of limitation fund outside The Bahamas.

27. Where the events resulting in the liability of any person under section 20 also resulted in a corresponding liability under the law of another Liability Convention country sections 25 and 26 shall apply as if the references to sections 20 and 24 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

Cases excluded from sections 23 to 27.

28.—(1) Sections 23 to 27 shall not apply to a ship which at the time of the discharge or escape was registered in a country —

- (a) which was not a Liability Convention country; and
- (b) which was a country in respect of which the 1957 Convention was in force.

(2) In this section 'the 1957 Convention' means the International Convention relating to the Limitation of the Liability of Owners of Seagoing Ships signed in Brussels on 10th October 1957.

(3) If the Minister by Order published in the *Gazette* declares that any country —

- (a) is not a Liability Convention country; and
- (b) is a country in respect of which the 1957 Convention is in force,

or that it was such a country at a time specified in the Order, the Order shall, while in force, be conclusive evidence of the facts stated in the Order.

29. No action to enforce a claim in respect of a liability incurred under section 20 shall be entertained by any court in The Bahamas unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge by reason of which the liability was incurred. Extinguishment of claims.

30.—(1) Subject to the provisions of this Act relating to Government ships, subsection (2) of this section shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of persistent oil of a description specified in regulations made by the Minister. Compulsory insurance against liability for pollution.

(2) A ship shall not enter or leave a port or arrive at or leave a terminal in Bahamian waters, nor, if the ship is a Bahamian ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) of this section and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).

(3) The certificate must be —

- (a) if the ship is a Bahamian ship, a certificate issued by the Minister;
- (b) if the ship is registered in a Liability Convention country other than The Bahamas a certificate issued by or under the authority of the government of that country; and
- (c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Minister or a certificate recognised for the purpose of this paragraph by regulations made under this section.

(4) The Minister may by regulations provide that certificates in respect of ships registered in any, or any specified, country which is not a Liability Convention country shall, in such circumstances as may be specified in the regulations, be recognised for the purposes of subsection (3) (c) of this section if issued by or under the authority of the government of the country designated in the regulations in that behalf; and the country that may be so designated may be either or both of the following, that is to say —

- (a) the country in which the ship is registered; and
- (b) any country specified in the regulations for the purposes of this paragraph.

(5) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any customs officer or officer designated by the Minister responsible for Maritime Affairs and, if the ship is a Bahamian ship, to a registrar, consular officer or inspector within the meaning of the Shipping Act.

(6) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves or attempts to arrive at or leave, a terminal in contravention of subsection (2) of this section, the master or owner shall be guilty of an offence and liable on summary conviction to a fine not exceeding 75,000 dollars.

(7) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (5) of this section the master shall be guilty of an offence and liable on summary conviction to a fine not exceeding 1,000 dollars.

(8) If a ship attempts to leave a Bahamian port in contravention of this section, the ship may be detained as provided in the Shipping Act.

Issue of cer-
tificate by
Minister.

31.—(1) Subject to subsection (2) of this section, if the Minister is satisfied, on an application for such a certificate as is mentioned in section 30 in respect of a Bahamian ship or a ship registered in a foreign country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Minister shall issue such a certificate to the owner.

(2) If the Minister is of the opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his obligations thereunder, or whether the insurance or other security will cover the owner's liability under section 20 in all circumstances, he may refuse the certificate.

(3) The Minister may make regulations —

- (a) prescribing the fee to be paid on an application for a certificate to be issued by him under this section; and
- (b) providing for the cancellation and delivery up of such a certificate in such circumstances as may be prescribed by the regulations.

(4) If a person required by regulations under subsection (3) (b) of this section to deliver up a certificate fails to do so he shall be guilty of an offence and liable on summary conviction to a fine not exceeding 500 dollars.

(5) The Minister shall send copies of any certificate issued by

him under this section in respect of a Bahamian ship to all registrars who shall make the copies available for public inspection.

32.—(1) Where it is alleged that the owner of a ship has incurred a liability under section 20 as a result of any discharge of oil occurring while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 30 related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as “the insurer”). Rights of third parties against insurers.

(2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner’s liability) to prove that the discharge or escape was due to the wilful misconduct of the owner himself.

(3) The insurer may limit his liability in respect of claims made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability but the insurer may do so whether or not the discharge occurred without the owner’s actual fault or privity.

(4) Where the owner and the insurer each apply to the Supreme Court for the limitation of his liability any sum paid into Court in pursuance of either application shall be treated as paid also in pursuance of the other.

33.—(1) The Admiralty jurisdiction of the Supreme Court shall be construed as extending to any claim in respect of a liability incurred under this Part. Jurisdiction.

(2) Where any persistent oil is discharged from a ship but does not result in any damage caused by contamination in the area of The Bahamas and no measures are reasonably taken to prevent or reduce such damage in that area, no court in The Bahamas shall entertain an action (whether in rem or in personam) to enforce a claim arising from —

- (a) any damage caused in the area of another Liability Convention country by contamination resulting from the discharge or escape;
- (b) any cost incurred in taking measures to prevent or reduce such damage in the area of such other country; or
- (c) any damage caused by any measures so taken.

34.—(1) Nothing in the preceding provisions of this Part shall apply in relation to any Government ship. Government ships.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with subsection (2) of section 30 if there is in force a certificate issued by the government of that State and showing that the ship is owned by that state and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V thereof.

(3) Every Liability Convention country shall, for the purposes of any proceedings brought in a court in The Bahamas to enforce a claim in respect of a liability incurred under section 20, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution against the property of any State.

Liability for cost of preventive measures where section 20 does not apply.

35.—(1) Where —

- (a) after a discharge of persistent oil from a ship, measures are reasonably taken for the purpose of preventing or reducing damage in the area of The Bahamas which may be caused by contamination resulting from the discharge; and
- (b) any person incurs, or might but for the measures have incurred, a liability, otherwise than under section 20, for any such damage;

then, notwithstanding that subsection (1) (b) of that section does not apply he shall be liable for the cost of the measures, whether or not the person taking them does so for the protection of his interests or in the performance of a duty.

(2) For the purposes of section 249 of the Shipping Act any liability incurred under this section shall be deemed to be a liability to damages in respect of such loss, damage or infringement as is mentioned in subsection (1) (d) of that section.

Saving for recourse actions.

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

PART V

The International Oil Pollution Compensation Fund

Interpretation of Part V.

37.—(1) In this Part, unless the context otherwise requires—
“discharge”, in relation to pollution damage, means the discharge or escape of oil carried by the ship concerned;

"the Fund", means the International Fund established by the Fund Convention;

"the Fund Convention", means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage opened for signature in Brussels on 18th December, 1971;

"Fund Convention Country", means a country to which the Fund Convention applies;

"Fund Convention ship", means a ship registered under the law of a Fund Convention country;

"guarantor", means any person providing insurance or other financial security, to cover an owner's liability, of the kind described in section 30;

"oil", except in sections 38 and 39, means persistent hydrocarbon mineral oil;

"pollution damage", means damage caused outside a ship carrying oil by contamination resulting from the discharge of oil from the ship, wherever the discharge may occur, and includes the cost of preventive measures;

"preventive measures", means any reasonable measures taken by any person after the occurrence to prevent or minimise pollution damage;

"ship", means any sea-going vessel and any seaborne craft of any type whatsoever carrying oil in bulk as cargo.

(2) For the purposes of this Part a ship's tonnage shall be the net tonnage of the ship with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage, and if the ship cannot be measured in accordance with the normal rules, its tonnage shall be deemed to be 40 per cent of the weight in tons of oil which the ship is capable of carrying.

(3) For the purposes of this Part where more than one discharge results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

38.—(1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminals in The Bahamas. Contributions by importers of oil and others.

(2) Subsection (1) of this section shall apply whether or not the oil is being imported, and notwithstanding that contributions were payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in The Bahamas after having been carried by sea and discharged in a port or terminal in a country which is not a Fund Convention country.

- (4) The person liable to pay contributions shall be —
- (a) in the case of oil which is being imported into The Bahamas, the importer; or
 - (b) in any other case, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of the oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 metric tons.

- (6) For the purpose of subsection (5) of this section—
- (a) all the members of a group of companies shall be treated as a single person; and
 - (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

- (7) The contributions payable by a person for any year shall—
- (a) be of such amount as may be determined by the Assembly of the Fund under Articles 11 and 12 of the Fund Convention and notified to him by the Fund;
 - (b) be payable in such instalments, becoming due at such times, as may be so notified to him,

and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the said Assembly, until it is paid.

(8) The Minister may by regulations impose on persons who are or may be liable to pay contributions under this section obligations to give security for payment to the Minister or to the Fund, and regulations under this subsection —

- (a) may contain such supplemental or incidental provisions as appear to the Minister expedient; and
- (b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding 1,000 dollars.

(9) In this section and section 39, unless the context otherwise requires —

“company”, means a body incorporated under the law of The Bahamas, or of any other country;

“importer”, means the person by whom or on whose behalf the oil in question is entered for customs purposes on importation, and “import” shall be construed accordingly;

“oil”, means crude oil, and fuel oil, and

- (a) “crude oil”, means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated

to render it suitable for transportation, and includes --

- (i) crude oils from which distillate fractions have been removed, and
- (ii) crude oils to which distillate fractions have been added,
- (b) "fuel oil", means heavy distillates or residues from crude oil, or blends of such materials, intended for use as a fuel for the production of heat or power, of a quality equivalent to the "American Society for Testing and Materials" Specification for Number Four Fuel Oil (Designation D 396-69)" or heavier.

39.—(1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 38 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Minister may by notice require any person engaged in producing, treating, distributing, or transporting oil to furnish such information as may be specified in the notice. Power to obtain information.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by subsection (6) of section 38.

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 38, particulars contained in any list transmitted by the Minister to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list, and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connexion with the execution of this section, he shall, unless the disclosure is made —

- (a) with the consent of the person from whom the information was obtained; or
- (b) in connexion with the execution of this section; or
- (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding 1,000 dollars.

- (6) A person who —
- (a) refuses or wilfully neglects to comply with a notice under this section; or
 - (b) in furnishing any information in compliance with a notice under this section, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding 20,000 dollars or to imprisonment for a term of twelve months, or to both.

Liability of the Fund.

40.—(1) Save as provided in subsection (7) of this section, the Fund shall be liable for pollution damage in The Bahamas if the person suffering the damage has been unable to obtain full compensation under section 20 —

- (a) because liability under that section is wholly displaced by section 21; or
- (b) because the owner or guarantor liable for the damage cannot meet his obligations in full; or
- (c) because the damage exceeds the liability under section 20 as limited —
 - (i) by section 23; or
 - (ii) (where the said section 23 is displaced by section 28) by section 249 of the Shipping Act.

(2) Subsection (1) of this section shall apply with the substitution for the words “The Bahamas” of the words “a Fund Convention country” where —

- (a) the headquarters of the Fund is for the time being in The Bahamas, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country; or
- (b) the incident has caused pollution damage both in The Bahamas and in another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in The Bahamas.

(3) Where an incident has caused pollution damage both in The Bahamas and in another Liability Convention country references in this section to the provisions of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country and the Fund is liable for that pollution damage by virtue of subsection (2) (a) of this section, references in this section to the provisions of this Act shall be treated as references to the corresponding provisions of the law of the country in which those proceedings were brought.

(5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 20.

(7) The Fund shall incur no obligation under this section if—

(a) it proves that the pollution damage —

(i) resulted from an act of war, hostilities, civil war, or insurrection; or

(ii) was caused by oil which has been discharged from a Government ship; or

(b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.

(8) If the Fund proves that the pollution damage resulted wholly or partly —

(a) from an act or omission done with intent to cause damage by the person who suffered the damage; or

(b) from the negligence of that person,

the Fund may be exonerated wholly or partly from its obligation to pay compensation to that person:

Provided that this subsection shall not apply to a claim in respect of expenses or sacrifices made voluntarily to prevent or minimise pollution damage.

(9) Where liability under section 20 is limited to any extent by subsection (5) of that section, the Fund shall be exonerated to the same extent.

(10) The Fund's liability under this section shall be subject to the limits imposed by paragraphs 4, 5 and 6 of Article 4 of the Fund Convention which impose an overall liability on the liabilities of the

First Schedule. owner and of the Fund, and the text of which is set out in the First Schedule to this Act.

(11) Notwithstanding any other law, evidence of any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.

(12) For the purpose of giving effect to the provisions of the Fund Convention mentioned in subsection (10) of this section, a court giving judgement against the Fund in proceedings under this section shall notify the Fund, and —

- (a) no steps shall be taken to enforce the judgement unless and until the court gives leave to enforce it;
- (b) that leave shall not be given unless and until the fund notifies the court either that the amount of the claim is not to be reduced under the said provisions, or that it is to be reduced to a specified amount; and
- (c) in the latter case the judgement shall be enforceable only for the reduced amount.

Indemnification
where damage
is caused by
Fund Con-
vention ship.

41.—(1) Where a liability is incurred under section 20 in respect of a Fund Convention ship, the Fund shall indemnify the owner of the ship and his guarantor for that portion of the aggregate amount of the liability which —

- (a) is in excess of an amount equivalent to 1500 francs for each ton of the ship's tonnage or of an amount of 125 million francs, whichever is the less; and
- (b) is not in excess of an amount equivalent to 2000 francs for each ton of the said tonnage or an amount of 210 million francs, whichever is the less.

(2) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country (but is a Liability Convention country) and either —

- (a) the incident has caused pollution damage in The Bahamas (as well as in that other country); or
- (b) the headquarters of the Fund is for the time being in The Bahamas,

subsection (1) of this section shall apply with the omission of the words "under section 20."

(3) The Fund shall not incur an obligation under this section

where the pollution damage resulted from the wilful misconduct of the owner of the ship.

(4) In proceedings to enforce the Fund's obligation under this section the court may exonerate the Fund wholly or partly if it is proved that, as a result of the actual fault or privity of the owner of the ship —

- (a) the ship did not comply with such requirements as the Minister may by regulations prescribe for the purposes of this section; and
- (b) the occurrence or damage was caused wholly or partly by that non-compliance.

(5) The requirements referred to in subsection (4) of this section are such requirements as appear to the Minister appropriate to implement the provisions of —

- (a) article 5(3) of the Fund Convention (marine safety conventions); and
- (b) article 5(4) of the Fund Convention (which enables the Assembly of the Fund to substitute new conventions).

(6) Regulations made under subsection (4) of this section may contain such transitional or other supplemental provisions as appear to the Minister to be expedient.

(7) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise the pollution damage shall be treated as included in the owner's liability for the purposes of this section.

42.—(1) The Admiralty jurisdiction of the Supreme Court ^{Jurisdiction.} shall be construed as extending to any claim in respect of a liability falling on the Fund under this Part.

(2) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 20, any judgement given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgement may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

(3) Where a person incurs a liability under the law of a Fund Convention country corresponding to Part IV for damage which is partly in the area of The Bahamas, subsection (2) of this section shall, for the purpose of proceedings under this Part, apply with any necessary modifications to a judgement in proceedings under that law of the said country.

43.—(1) No action to enforce a claim against the Fund under ^{Extinguishment} of claims.

this Part shall be entertained by a court in The Bahamas unless—

- (a) the action is commenced; or
- (b) a third party notice of an action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund,

not later than three years after the claim against the Fund arose, and in this subsection "third party notice" means a notice of the kind described in subsections (2) and (3) of section 42.

(2) No action to enforce a claim against the Fund under this Part shall be entertained by a court in The Bahamas unless the action is commenced not later than six years after the occurrence or first of the occurrences, resulting in the discharge by reason of which the claim against the Fund arose.

(3) Notwithstanding the preceding provisions of this section, a person's right to bring an action under section 41 shall not be extinguished before six months from the date when that person first acquired knowledge of the bringing of an action against him under this Part (that is to say an action to enforce a liability against which he seeks indemnity), or under the corresponding provisions of the law of any country outside The Bahamas giving effect to the Liability Convention.

Subrogation
and rights of
recourse.

44.—(1) In respect of any sum paid under section 40(1) (b) the Fund shall acquire by subrogation the rights of the recipient against the owner or guarantor.

(2) The right of the Fund under subsection (1) of this section is subject to any obligation of the Fund under section 41 to indemnify the owner or guarantor for any part of the liability on which he has defaulted.

(3) In respect of any sum paid —

(a) under paragraph (a) or paragraph (c) of section 40(1);
or

(b) under section 41,

the Fund shall acquire by subrogation any rights of recourse or subrogation which the owner or guarantor or any other person has in respect of his liability for the damage in question.

(4) In respect of any sum paid by a public authority in The Bahamas as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Part.

PART VI
Oil Tankers

45. In this Part, unless the context otherwise requires— Interpretation
of Part VI.
“Bahamian tanker” means a tanker which is a Bahamian ship;

“certificated”, in relation to a tanker, means certificated within the meaning of the Third Schedule to this Act;

“the Convention”, means —

(a) Article VI *bis* and Annex C of the International Convention, signed in London on 12th May, 1954, for the Prevention of Pollution of the sea by Oil, which Article and Annex were added on 15th October, 1971, by resolution of the Assembly of the Inter-governmental Maritime Consultative Organization; and

(b) any other international convention, or amendment of an international convention, which relates in whole or in part to prevention of pollution of the sea by oil, and which has been signed for The Bahamas whether before or after the coming into operation of this Part;

“Convention country” means a country in respect of which a state is party to any of the Conventions;

“oil”, means crude oil, fuel oil (including diesel oil) and lubricating oil;

“port”, means a port as defined in section 2 and also any terminal and references to entering or leaving a port shall include references to using or ceasing to use a terminal;

“tanker”, means a ship which is constructed or adapted primarily to carry oil in bulk in its cargo spaces, whether or not it is also so constructed or adapted as to be capable of carrying other cargo in those spaces.

46.—(1) For the purpose of preventing pollution of the sea by oil, the Minister may make rules (called “oil tanker construction rules”) prescribing requirements to be complied with by Bahamian tankers in respect of their design and construction. Oil tanker
construction
rules.

(2) Rules under this section may include such requirements as appear to the Minister to implement any of the provisions of the Conventions, so far as they relate to prevention of pollution of the sea by oil whether or not the said provisions are for the time being binding on the Government.

(3) Oil tanker construction rules may provide—

- (a) for tankers to be surveyed and inspected with a view to determining whether they comply with the rules;
- (b) for a tanker which on a survey is found to comply to be issued with a certificate called a "tanker construction certificate"; and
- (c) for a tanker which is not required to comply with the rules to be issued with a certificate called a "tanker exemption certificate".

Second
Schedule.

(4) The second Schedule to this Act shall have effect for supplementing this Part.

(5) It is hereby declared that the tankers to which rules under this section may be applied include those designed or constructed before the rules come into force, and that the following provisions of this Part apply whether the tanker in question was designed or constructed before or after the relevant requirements as to design or construction came into force.

Restrictions on
tankers sailing.

47.—(1) No tanker shall proceed, or attempt to proceed to sea from any place in The Bahamas unless—

- (a) it is a certificated tanker; or
- (b) it is not a Bahamian tanker, and —
 - (i) if it were a Bahamian tanker, it would qualify for the issue of a tanker exemption certificate; or
 - (ii) its gross tonnage is less than 150 tons; or
- (c) the Director has issued it with leave to sail.

(2) Where an application is made for leave to sail to be issued to a tanker, then —

- (a) if it is a Bahamian tanker, the Director may issue it with leave to sail where he considers it appropriate to do so;
- (b) if the tanker is not a Bahamian tanker the Director —
 - (i) shall issue it with leave to sail if he is satisfied that it would qualify for the issue of a tanker construction certificate if it were a Bahamian tanker; or
 - (ii) may, if he is not so satisfied, issue it with leave to sail where he considers it appropriate to do so.

(3) Leave to sail issued under paragraph (a) or (b) (ii) of subsection (2) of this section, may be issued subject to conditions imposed with a view to preventing or limiting the danger of oil pollution, including —

- (a) conditions as to the cargo with which the tanker may sail;
 - (b) a condition that the tanker sails only to a specified place in The Bahamas or elsewhere.
- (4) Subject to subsection (5) of this section, if—
- (a) a tanker proceeds, or attempts to proceed, to sea in contravention of subsection (1) of this section; or
 - (b) leave to sail having been issued to a tanker under this section subject to conditions it proceeds to sea but the conditions are not complied with,

the owner and master of the tanker shall be guilty of an offence and liable on summary conviction to a fine not exceeding 25,000 dollars.

(5) In proceedings under subsection (4) of this section it shall be a defence to prove that in order —

- (a) to ensure the safety of the tanker; or
- (b) to reduce the risk of damage to any other vessel or property,

it was necessary for the tanker to proceed to sea in contravention of subsection (1) of this section or, as the case may be, without complying with the conditions mentioned in paragraphs (b) of subsection (4).

(6) In this section "damage" does not include damage caused by contamination resulting from the discharge of oil from a tanker.

48.—(1) If it appears to the Director that a tanker is not certified he may direct the tanker —

- (a) not to enter any port (or not to enter one or more specified ports); or
- (b) not to enter all or any ports except subject to specified conditions;

(2) A direction may be given under this section in respect of a tanker which is for the time being in a port so as to apply after it leaves that port.

(3) Directions under this section shall be addressed to the master or owner of the tanker, or to both, and may be communicated by any means which appear to the Director suitable for the purpose.

(4) Subject to subsection (5) of this section, if a tanker enters a port in contravention of a direction under this section, or without complying with any conditions imposed under this section, the owner and the master of the tanker shall each be guilty of an offence and liable on summary conviction to a fine not exceeding 40,000 dollars.

(5) In proceedings under subsection (4) of this section, it shall be a defence to prove that the tanker entered the port out of necessity due —

Restrictions on
uncertificated
tankers.

- (a) to an emergency involving a threat to any person's life or the safety of the tanker; or
- (b) to circumstances outside the control of the tanker's master.

PART VII

Enforcement

Oil records.

49.—(1) The Minister may make regulations requiring oil record books to be carried in Bahamian ships 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 mixtures; 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 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 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 Bahamian waters, 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) The following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding 1,500 dollars —

- (a) the owner or master of a ship which fails to carry such an oil record book as it is required to carry by regulations under this section;
- (b) any person who fails to comply with any requirement placed upon him by or under this section;
- (c) any person who makes an entry, in an oil record book carried, or record kept, in pursuance of regulations under this section, which is to his knowledge false or misleading in any material particular,

and in the case of a person guilty of an offence under paragraph (c) of this subsection the court may impose a sentence of imprisonment of twelve months either in addition to or in lieu of such fine.

(6) In any proceedings under this Act, and notwithstanding any other law —

- (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 in-
spection.

50.—(1) The Minister may appoint any duly qualified person 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 other than section 6) have been complied with;
- (b) what measures (other than measures made obligatory by regulations made under section 7) have been taken to prevent the escape of oil and mixtures;
- (c) whether the oil reception facilities provided in ports are adequate,

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

(2) Every inspector 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 281 of the Shipping Act (powers of inspectors) shall apply to persons appointed or taken to be appointed under subsection (1) of this section as it applies to 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 of inspection under that section included power to inspect any apparatus used for transferring oil.

(4) Any power of an inspector applied by subsection (3) of this section 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 7.

(5) Any power of an inspector applied by subsection (3) of this section 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 49 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 section 281 of the Shipping Act, 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 port the harbour master, and any other person appointed or taken to be 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 any alleged discharge of oil or a mixture from the vessel into the waters of the port.
- (b) to require the production of any oil record book required to be carried or records to be kept in pursuance of regulations made under section 49; 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 proceedings 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 guilty of an offence, and liable on summary conviction to a fine not exceeding 25 dollars, and if any person wilfully obstructs a person acting in the exercise of any power conferred by virtue of this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding 250 dollars.

51.—(1) Where, immediately before the date on which (apart Proceedings. from this subsection) the time for bringing proceedings for an offence under this Act would expire, the person to be charged is outside The Bahamas, 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 The Bahamas.

(2) 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.

(3) Proceedings for an offence under section 6 may be brought only by or with the consent of the Attorney General, and any such proceedings may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in The Bahamas.

Enforcement
and application
of fines.

52.—(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 and sale of the vessel, her tackle, furniture and apparel.

(2) Where a person is convicted of an offence under section 4 or section 5 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.

53.—(1) The Minister may by Order published in the *Gazette* empower such persons as may be designated by or under the Order to go on board any Convention ship while the ship is within any port, and to require production of any oil record book required to be carried in accordance with the Convention.

(2) An Order under this section may, for the purposes of the Order, and with any necessary modification 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 Shipping Act applied by those provisions of this Act in so far as they relate to those matters.

(3) The Minister, if satisfied that the government of any state or country has accepted, or denounced, a Convention, or that a Convention extends, or has ceased to extend, to any territory, may by Order published in the *Gazette* make a declaration to that effect, and such Order shall, while in force be conclusive evidence of the facts stated therein.

(4) In this section "Convention" means any Convention referred to in this Act and any other Convention accepted by the Government in so far as it relates to the prevention of pollution of the sea by oil; and "Convention ship" means a ship registered under the laws of —

- (a) a country the government of which has been declared by an Order under subsection (3) of this section 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.

PART VIII
Supplemental

54.—(1) The Minister may by Order published in the *Gazette* direct that, subject to such exceptions and modifications as may be specified in the Order, any regulations made under section 7 or section 49(1) shall apply to foreign ships at any time when they are in a port, or are within Bahamian waters while on their way to or from a port.

Power to apply certain provisions to foreign ships.

(2) An Order under subsection (1) of this section shall not be made so as to impose different requirements in respect of ships of different countries or territories but if the Minister is satisfied, as respects any country or territory, that ships registered there are required, by the law of that country or territory, to comply with provisions which are substantially the same as, or equally effective with, the requirements imposed by virtue of the Order, he may, by such Order, 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 under this section apply to any ship as being within a port, or on her way to or from such a port, if the ship would not have been within the port, or, as the case may be, on her way to or from the port, but for stress of weather or any other circumstances which neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

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

Offences by bodies corporate.

56. Any power conferred by this Act or by regulations made thereunder to test 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 provisions of this Act or such regulations as to submitting equipment for testing shall be construed accordingly.

Testing of equipment.

57.—(1) The Minister may, from time to time, by Order published in the *Gazette* specify the amounts which, for the purposes of this Act, are to be taken as equivalent to any specified number of francs.

Franc equivalent.

(2) Where money has been paid into court in respect of any liability to which a limit is set by this Act, the ascertainment of that limit shall not be affected by a subsequent variation of the amounts specified under subsection (1) of this section unless the amount so paid was less than that limit as ascertained in accordance with the Order then in force under that subsection.

Applied
regulations
Fourth
Schedule.

58.—(1) The regulations, rules and orders specified in the Fourth Schedule to this Act, (hereinafter referred to as “the applied regulations”) as from time to time amended, shall be deemed to have been made under the relevant provisions of this Act and shall have full force and effect accordingly; and —

- (a) any reference in the applied regulations to British ships, or to ships registered in the United Kingdom, shall be construed as a reference to Bahamian ships, and any reference to a port or harbour in the United Kingdom shall be construed as a reference to a port in The Bahamas;
- (b) any reference in the applied regulations to the Secretary of State or to the Board of Trade shall be construed as a reference to the Minister;
- (c) the applied regulations shall be otherwise construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act;
- (d) any certificate, form or code of instructions printed and officially published for use in compliance with the applied regulations shall apply in similar manner;
- (e) the applied regulations may be amended or replaced by rules, regulations or orders made under this Act.

Fourth
Schedule.

(2) The Minister may by notice in the *Gazette* amend or add to the Fourth Schedule to this Act.

Repeal of No. 4
of 1968.

59. The Discharge of Oil (Prevention) Act, 1967, is repealed.

FIRST SCHEDULE

(S.40(10))

Overall Limit on Liability of Fund

Article 4 — paragraphs 4, 5, and 6

4. (a) Except as otherwise provided in sub-paragraph (b) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage caused in the territory of the Contracting States, including any sums in respect of which the Fund is under an obligation to indemnify the owner pursuant to Article 5, paragraph 1, of this Convention, shall not exceed 450 million francs.

(b) The aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 450 million francs.
5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under the Liability Convention and this Convention shall be the same for all claimants.
6. The Assembly of the Fund (hereinafter referred to as "the Assembly") may, having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to changes in the monetary values decide that the amount of 450 million francs referred to in paragraph 4, sub-paragraph (a) and (b), shall be changed; provided, however, that this amount shall in no case exceed 900 million francs or be lower than 450 million francs. The changed amount shall apply to incidents which occur after the date of the decision effecting the change.

SECOND SCHEDULE

(S.46(4))

Oil Tankers**Surveys, inspections and certificates**

1. (1) Oil tanker construction rules may provide for any surveys or inspections under the rules to be undertaken, and certificates to be issued, in such circumstances as may be specified in the rules, by any person or persons, authorized to carry out surveys or inspections, or issue certificates, by or under the Shipping Act.
- (2) The rules may apply any of the provisions of Part V of the Shipping Act with such exceptions or modifications as may be prescribed by the rules.

Duty to notify alterations

2. (1) The rules may require the owner of a Bahamian tanker to notify the Director of any alteration to the tanker which may affect the question of its qualification or continued qualification for a tanker construction certificate or a tanker exemption certificate.
- (2) If any person contravenes the rules by failing to notify such an alteration, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding 2,500 dollars.

Clearance of outgoing tanker

3. (1) Before a certified tanker proceeds to sea, the master of the tanker shall produce the certificate to the officer of customs from whom a clearance for the ship is demanded.
- (2) Before any tanker which is not certificated proceeds to sea, the master of the tanker shall produce to the officer of customs from whom a clearance for the ship is demanded evidence to the satisfaction of the officer that the departure will not be in contravention of section 47.
- (3) A clearance shall not be granted, and the tanker may be detained, until the certificate or other evidence is so produced.

Inspection of foreign tanker

4. (1) For the purpose of determining whether a foreign tanker is certificated, or whether, if it were a Bahamian tanker, it would qualify for the issue of a tanker construction certificate or a tanker exemption certificate, a competent officer may at all reasonable times go on board the tanker and inspect any part of it, and call for the production of any document carried in the tanker.

(2) An officer exercising powers under this paragraph shall not unnecessarily detain or delay a tanker but may, if he considers it necessary in order to determine—

- (a) whether the tanker should be issued with leave to sail under section 47, or whether leave to sail should be issued subject to any conditions under subsection (3) of that section; or
- (b) whether an order should be issued in respect of the tanker under section 48,

require the tanker to be taken into dock for a survey of its hull, cargo-spaces or fuel-tanks.

(3) If any person obstructs an officer acting under this paragraph, or fails to comply with a requirement made under sub-paragraph (2) thereof, or fails to produce a document carried in the tanker when called on by the officer to produce it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding 250 dollars.

(4) In this paragraph "competent officer" means a registrar, an inspector and any other suitably qualified person authorized by the Director to act thereunder.

Offences

- 5. (1) Oil tanker construction rules may provide for the punishment of any contravention of the rules by making a person liable on summary conviction to a fine not exceeding five hundred dollars.
- (2) This paragraph is without prejudice to liability for any offence against the rules for which a punishment is provided by some other provision of this Act.

Fees

- 6. Oil tanker construction rules —
 - (a) may prescribe the fees payable in respect of surveys and inspections carried out, and certificates issued, under the rules;
 - (b) shall, subject to sub-paragraph (c) below, provide for all fees payable under the rules to be paid to the Minister; and
 - (c) may, in the case of surveys and inspections carried out, and certificates issued, by persons who are not officers of the Government, provide for fees to be payable to those persons.

THIRD SCHEDULE

(S.45)

Certificated Tankers

1. In Part VI of this Act a "certificated tanker" means one falling within paragraphs 2, 3 and 4 below.

2. A tanker is certificated if it is a Bahamian tanker in respect of which a tanker construction certificate or a tanker exemption certificate is in force.

3.—(1) A tanker registered in a Convention country other than The Bahamas is certificated if a certificate corresponding to a tanker construction certificate or tanker exemption certificate duly issued under the law of that country is in force in respect of the tanker.

(2) The Minister may by Order published in the *Gazette* declare that for the purposes of this paragraph a certificate of a kind specified in the order is one which corresponds to a tanker construction certificate or tanker exemption certificate, and is of a kind which is issued under the law of a Convention country so specified.

(3) An order under this paragraph shall, while the order is in force, be conclusive evidence of the facts stated in the order.

4.—(1) A tanker is certificated if a certificate of a prescribed kind issued under the law of the country which is not a Convention country is in force as respects the tanker.

(2) In this paragraph "prescribed" means prescribed by Order of the Minister published in the *Gazette*.

5. An order made under this Schedule may be varied or revoked by a subsequent Order so made.

FOURTH SCHEDULE

(S.59)

Applied Regulations
United Kingdom Regulations, Rules and Orders

<i>Publication</i>	<i>Title</i>	<i>Relevant Provision of Act</i>
SI 1967 No. 710	The Oil in Navigable Waters (Heavy Diesel Oil) Regulations, 1967	4(2) (b)
SI 1972 No. 1928	The Oil in Navigable Waters (Exceptions) Regulations, 1972	4(3)
SI 1956 No. 1423	The Oil in Navigable Waters (Ships' Equipment) (No. 1) Regulations, 1956	7(1)
SI 1957 No. 1424	The Oil in Navigable Waters (Ships' Equipment) Regulations, 1957	7(2)
SI 1971 No. 1736	The Merchant Shipping (Oil in Navigable Waters) (Shipping Casualty) Order, 1971	19
SI 1975 No. 1036	The Merchant Shipping (Oil Pollution) (Parties to Conventions) Order, 1975	28(3)
SI 1976 No. 1039	Amendment Order, 1976	
SI 1975 No. 869	The Oil Pollution (Compulsory Insurance) Regulations, 1975	30(1); 30(4) and 31(3)
SI 1975 No. 1234	Amendment Regulations, 1975	
SI 1975 No. 1759	Amendment Regulations, 1975	
SI 1975 No. 2002	Amendment Regulations, 1975	
SI 1976 No. 154	Amendment Regulations, 1976	
SI 1976 No. 857	Amendment Regulations, 1976	
SI 1976 No. 1177	Amendment Regulations, 1976	
SI 1976 No. 1440	Amendment Regulations, 1976	
SI 1957 No. 358	The Oil in Navigable Waters (Transfer Records) Regulations, 1957	49(2); 49(3)
SI 1972 No. 1929	The Oil in Navigable Waters (Records) Regulations, 1972	49(1)