



Number 33 of 2003

**OIL POLLUTION OF THE SEA (CIVIL LIABILITY AND
COMPENSATION) (AMENDMENT) ACT 2003**

ARRANGEMENT OF SECTIONS

Section

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9. Amendment of section 23 (pollution damage in two countries) of Act of 1988.
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11. Recognition and enforcement of Judgement of Member State of European Communities in relation to Supplementary Fund.
12. Short title, collective citation, construction and commencement.

[No. 33.] *Oil Pollution of the Sea* [2003.]
(*Civil Liability and Compensation*)
(*Amendment*) Act 2003.

Acts Referred to

Oil Pollution of the Sea (Civil Liability and Compensation) (Amendment) Act 1998	1998, No. 13
Oil Pollution of the Sea (Civil Liability and Compensation) Act 1988	1988, No. 11



Number 33 of 2003

**OIL POLLUTION OF THE SEA (CIVIL LIABILITY AND
COMPENSATION) (AMENDMENT) ACT 2003**

AN ACT TO GIVE EFFECT TO THE AMENDMENT OF THE LIMITATION AMOUNTS IN THE PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE 1969, DONE AT LONDON ON 27 NOVEMBER 1992, AND THE AMENDMENT OF THE LIMITS OF COMPENSATION IN THE PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE 1971, DONE AT LONDON ON 27 NOVEMBER 1992, TO GIVE EFFECT TO THE PROTOCOL OF 2003 TO THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE 1992, DONE AT LONDON ON 16 MAY 2003, AND FOR THOSE PURPOSES TO AMEND THE OIL POLLUTION OF THE SEA (CIVIL LIABILITY AND COMPENSATION) ACTS 1988 TO 1998, AND TO PROVIDE FOR CONNECTED MATTERS. [29th October, 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“Act of 1988” means the Oil Pollution of the Sea (Civil Liability and Compensation) Act 1988;

“Act of 1998” means the Oil Pollution of the Sea (Civil Liability and Compensation) (Amendment) Act 1998;

“Minister” means the Minister for Communications, Marine and Natural Resources.

2.—(1) *Sections 4 and 7(1) apply in respect of incidents occurring on or after the commencement of those sections.* Application.

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S.2 (2) For the purposes of this Act, an incident that consists of a series of occurrences having the same origin is deemed to have occurred on the happening of the first of those occurrences.

Amendment of section 3 (interpretation) of Act of 1988.

3.—Section 3 (as amended by section 3 of the Act of 1998) of the Act of 1988 is amended—

(a) by inserting in subsection (1) the following definition after the definition of “aggregate amount of compensation”:

“ ‘Assembly of the Supplementary Fund’ means the Assembly specified in Article 16 of the Supplementary Fund Protocol;”,

and

(b) by inserting in subsection (1) the following definitions after the definition of “ship”:

“ ‘Supplementary Fund’ means the International Oil Pollution Compensation Supplementary Fund 2003, established by the Supplementary Fund Protocol;

‘Supplementary Fund Protocol’ means the Protocol of 2003 to the International Convention on the establishment of an International Fund for Compensation for Oil Pollution Damage, done at London on 16 May 2003;”.

Amendment of section 10 (limitation on liability for pollution damage) of Act of 1988.

4.—Section 10 (inserted by section 6 of the Act of 1998) of the Act of 1988 is amended in subsection (1)(b)—

(a) by substituting “4,510,000 units of account” for “3 million units of account” in both places where it occurs,

(b) by substituting “631 units of account” for “420 units of account”, and

(c) by substituting “89,770,000 units of account” for “59.7 million units of account”.

Amendment of section 19 (returns of volume of oil carried by sea) of Act of 1988.

5.—Section 19 (as amended by section 9 of the Act of 1998) of the Act of 1988 is amended by substituting the following for subsection (4):

“(4) A person who—

(a) fails to submit to the Minister the returns specified in subsection (1) within the prescribed time,

(b) submits a false return to the Minister,

(c) fails to make the payment specified in subsection (2),
or

(d) fails to make the payment specified in section 19A(2),

is guilty of an offence.”.

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6.—The Act of 1988 is amended by inserting the following new section after section 19: Amendment of Act of 1988 (Supplementary Fund).

“Supplementary Fund.

19A.—(1) The Supplementary Fund shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of other property.

(2) It shall be the duty of such persons as may be prescribed to pay each year into the Supplementary Fund in such manner and on or before such date as may be prescribed such sums as may be determined by the Assembly of the Supplementary Fund and certified by the Director of the Supplementary Fund, any such sum to be determined in accordance with the returns submitted to the Minister under section 19(1) or, where the person concerned fails or neglects to submit the appropriate return on or before the prescribed date, to pay the Supplementary Fund such sum as may be calculated on an estimate of that person’s returns for that year.

(3) If any person fails to pay to the Supplementary Fund any sum due and payable under subsection (2) the Director of the Supplementary Fund may recover from the person by whom it was payable in any court of competent jurisdiction, as a simple contract debt, such sum together with interest thereon from the date on which such sum became payable, such interest to be at such rate as may, from time to time, be determined in accordance with the Internal Regulations of the Supplementary Fund.”.

7.—(1) Section 21 of the Act of 1988 is amended—

Amendment of section 21 (extent of liability of Fund) of Act of 1988.

(a) in subsection (1) (inserted by section 11(a) of the Act of 1998) by substituting “203,000,000 units of account” for “135 million units of account” in both places where it occurs,

(b) in subsection (2) (inserted by section 11(b) of the Act of 1998)—

(i) by substituting “203,000,000 units of account” for “135 million units of account”, and

(ii) by substituting “300,740,000 units of account” for “200 million units of account”.

(2) Section 21 of the Act of 1988 is further amended by substituting the following for subsections (3) to (5):

“(3) Where the Fund incurs a liability under this Act and the amount specified in subsection (1) is exceeded, the Supplementary Fund shall, subject to subsection (4), be liable for any excess over that amount.

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(4) Where the Supplementary Fund incurs a liability under this Act in respect of pollution damage in the State, the aggregate amount of compensation payable in respect of any one incident shall not exceed 750,000,000 units of account.

(5) Where the amount of established claims against the Supplementary Fund exceeds the aggregate amount of compensation payable under subsection (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 by virtue of the Supplementary Fund Protocol shall be the same for all claimants.

(6) Where pursuant to Article 24 of the Supplementary Fund Protocol the amount specified in subsection (4) is duly amended by increasing the amount, then the Minister shall, if satisfied that the amount has been duly increased, make an order giving the new increased amount the force of law. The Minister shall specify in the order a date, not earlier than its coming into force internationally in accordance with that Protocol, when the increased aggregate amount of compensation in relation to the Supplementary Fund comes into force in the State.

(7) Subject to subsection (1) the Fund shall, in respect of any amount of compensation for pollution damage paid by the Fund under this Act, acquire by subrogation any rights that the person so compensated may enjoy under this Act against the owner of the ship or the guarantor.

(8) Subject to subsection (4) the Supplementary Fund shall, in respect of any amount of compensation for pollution damage paid by the Supplementary Fund under this Act, acquire by subrogation any rights that the person so compensated may enjoy under this Act against the owner of the ship or the guarantor.

(9) In this section—

‘aggregate amount of compensation’ means, in relation to any one incident, the maximum amount of compensation payable by the Fund or the Supplementary Fund in respect of pollution damage arising out of the incident, by virtue of the application of any one or more of the following:

- (a) this Act,
- (b) the law of a Convention Country,
- (c) the Fund Convention,
- (d) the Supplementary Fund;

‘combined amount of compensation’ means, in relation to any one incident, the amount of compensation paid by a person other than the Fund or the Supplementary Fund in respect of pollution damage arising out of the incident, and the aggregate amount of compensation.”.

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- 8.—Section 22 (as amended by section 12 of the Act of 1998) of the Act of 1988 is amended by inserting “or the Supplementary Fund” after “Fund” in both places where it occurs.

Amendment of section 22 (limitation of actions against Fund and Supplementary Fund) of Act of 1988.
- 9.—Section 23 (as amended by section 13 of the Act of 1998) is amended by inserting “or the Supplementary Fund” after “Fund”.

Amendment of section 23 (pollution damage in two countries) of Act of 1988.
- 10.—Section 24 of the Act of 1988 is amended in subsection (1) by inserting “or the Supplementary Fund” after “Fund”.

Amendment of section 24 (claims by State) of Act of 1988.
- 11.—The Act of 1988 is amended by inserting the following new Part after Part IV:

Recognition and enforcement of Judgement of Member State of European Communities in relation to Supplementary Fund.

“PART IVA

RECOGNITION AND ENFORCEMENT OF JUDGEMENT
OF MEMBER STATE OF EUROPEAN COMMUNITIES
IN RELATION TO SUPPLEMENTARY FUND

- Judgement in relation to Supplementary Fund.

29A.—(1) This Part shall apply only to a judgement of a Member State in relation to the Supplementary Fund.
- (2) The Council Regulation and the European Communities (Civil and Commercial Judgements) Regulations 2002 (S.I. No. 52 of 2002) apply in respect of a judgement of a Member State other than a court or tribunal of a territory of a Member State to which the Council Regulation does not apply.
- (3) In this Part—

‘Council Regulation’ means Council Regulation (EC) No. 44/2001 of 22 December 2000¹ on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters;

‘Member State’ means a Member State of the European Communities, other than the State and Denmark.”.

- 12.—(1) This Act may be cited as the Oil Pollution of the Sea (Civil Liability and Compensation) (Amendment) Act 2003.

Short title, collective citation, construction and commencement.
- (2) The Oil Pollution of the Sea (Civil Liability and Compensation) Acts 1988 to 1998 and this Act may be cited together as the Oil Pollution of the Sea (Civil Liability and Compensation) Acts 1988 to 2003, and shall be construed together as one Act.
- (3) (a) Sections 2, 4, and 7(1) and, in so far as it relates to those sections, section 1, come into operation on 1 November 2003.

¹ OJ No. L12 of 16.1.2001, p.1.

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- (b) Subject to *paragraph (a)* this Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.