



Prevention of Oil Pollution Act 1971

1971 CHAPTER 60

Enforcement

^{F1}17 Oil records.

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Textual Amendments

F1 S. 17 repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch. 12** (with s. 312(1), Sch. 14 para. 1)

^{F2}18 Powers of inspection.

- (1) The Secretary of State may appoint any person as an inspector to report to him—
 - (a) whether the prohibitions, restrictions and obligations imposed by virtue of this Act (including prohibitions so imposed by the creation of offences under any provision of this Act other than section 3) have been complied with;
 - (b) what measures (other than measures made obligatory by regulations made under section 4 of this Act) have been taken to prevent the escape of oil and mixtures containing oil;
 - (c) whether the oil reception facilities provided in harbours are adequate;and any such inspector may be so appointed to report either in a particular case or in a class of cases specified in his appointment.
- (2) Every surveyor of ships shall be taken to be a person appointed generally under the preceding subsection to report to the Secretary of State in every kind of case falling within that subsection.
- (3) [^{F3}Sections 27 and 28(1), (3) and (4) of the ^{M1}Merchant Shipping Act 1979] (powers of inspectors) shall apply to persons appointed or taken to be appointed under subsection (1) of this section as it applies to the inspectors referred to in that section and shall, as so applying, have effect as if—

Changes to legislation: There are currently no known outstanding effects for the Prevention of Oil Pollution Act 1971, Cross Heading: Enforcement. (See end of Document for details)

- [^{F4}(a) any reference to a ship included any vessel, any reference to the Merchant Shipping Acts (except the second reference in sub-paragraph (iii) of section 27(1)(h), were a reference to this Act and the reference in that sub-paragraph to regulations were omitted;] and
- (b) any power under that section to inspect premises included power to inspect any apparatus used for transferring oil.
- ^{F5}(4)
- (5) Any power of an inspector, [^{F6}under section 27] as so applied, to require the production of any oil record book required to be carried or records required to be kept in pursuance of regulations made under section 17 of this Act shall include power to copy any entry therein and require the master to certify the copy as a true copy of the entry; . . . ^{F7}
- (6) Without prejudice to any powers exercisable by virtue of the preceding provisions of this section, in the case of a vessel which is for the time being in a harbour in the United Kingdom the harbour master, and any other person appointed by the Secretary of State under this subsection (either generally or in relation to a particular vessel), shall have power—
- (a) to go on board and inspect the vessel or any part thereof, or any of the machinery, boats, equipment or articles on board the vessel, for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or a mixture containing oil from the vessel into the waters of the harbour;
- (b) to require the production of any oil record book required to be carried or records required to be kept in pursuance of regulations made under section 17 of this Act; and
- (c) to copy any entry in any such book or record and require the master to certify the copy as a true copy of the entry.
- (7) A person exercising any powers conferred by subsection (6) of this section shall not unnecessarily detain or delay the vessel from proceeding on any voyage.
- (8) If any person fails to comply with any requirement duly made in pursuance of paragraph (b) or paragraph (c) of subsection (6) of this section, he shall be liable on summary conviction to a fine not exceeding [^{F8}level 3 on the standard scale]; and if any person wilfully obstructs a person acting in the exercise of any power conferred by virtue of this section [^{F9}and the obstruction is not punishable by virtue of the said section 28(1)], he shall be liable on summary conviction to a fine not exceeding [^{F10}level 4 on the standard scale].]

Textual Amendments

- F2** S. 18 repealed (except in its application to ss. 2(1) and 3) by 1993 c. 22, s. 8(4), **Sch. 5 Pt. II**; S.I. 1993/3137, art. 3(2), **Sch. 2**
- F3** Words substituted by **Merchant Shipping Act 1979 (c. 39), s. 28(7)(c)(i)**
- F4** S. 18(3)(a) substituted by **Merchant Shipping Act 1979 (c. 39), s. 28(7)(c)(i)**
- F5** S. 18(4) repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch. 12** (with s. 312(1), Sch. 14 para. 1)
- F6** Words substituted by **Merchant Shipping Act 1979 (c. 39), s. 28(7)(c)(ii)**
- F7** Words repealed by **Merchant Shipping Act 1979 (c. 39), Sch. 7 Pt. II**
- F8** Words substituted by virtue of (E.W.) **Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46**; (S.) **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**
- F9** Words inserted by **Merchant Shipping Act 1979 (c. 39), s. 28(7)(c)(iii)**

Changes to legislation: There are currently no known outstanding effects for the Prevention of Oil Pollution Act 1971, Cross Heading: Enforcement. (See end of Document for details)

F10 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G, s. 54 and (N.I.) S.I. 1984/703 (N.I. 3), art. 5

Modifications etc. (not altering text)

- C1** S. 18 restricted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 17(a)**; S.I. 1993/3137, art. 3(2), **Sch. 2**
- C2** S. 18(1)(a) amended (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 17**; S.I. 1993/3137, art. 3(2), **Sch. 2**
- C3** S. 18(2) amended (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 17(a)**; S.I. 1993/3137, art. 3(2), **Sch. 2**
- C4** S. 18(6) restricted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 17(b)**; S.I. 1993/ 3137, art. 3(2), Sch. 2

Marginal Citations

- M1** 1979 c. 39.

19 Prosecutions.

- (1) Proceedings for an offence under this Act may, in England or Wales, be brought only—
 - (a) by or with the consent of the Attorney General, or
 - (b) if the offence is one to which subsection (2) of this section applies, by the harbour authority, or
 - (c) unless the offence is one mentioned in paragraph (b), (c) or (d) of subsection (2) of this section, by the Secretary of State or a person authorised by any general or special direction of the Secretary of State.
- (2) This subsection applies to the following offences—
 - (a) any offence under section 2 of this Act which is alleged to have been committed by the discharge of oil, or a mixture containing oil, into the waters of a harbour in the United Kingdom;
 - ^{F11}(b)
 - ^{F11}(c)
 - (d) any offence under section 18 of this Act in respect of a failure to comply with a requirement of a harbour master, or in respect of obstruction of a harbour master acting in the exercise of any power conferred by virtue of that section.
- (3) The preceding provisions of this section shall apply in relation to any part of a dockyard port within the meaning of the ^{M2}Dockyard Ports Regulation Act 1865 as follows, that is to say—
 - (a) if that part is comprised in a harbour in the United Kingdom, the reference to the harbour authority shall be construed as including a reference to the Queen’s harbour master for the port;
 - (b) if that part is not comprised in a harbour in the United Kingdom, the references to such a harbour shall be construed as references to such a dockyard port and the reference to the harbour authority as a reference to the Queen’s harbour master for the port.
- (4) Where, immediately before the date on which (apart from this subsection) the time for bringing summary proceedings for an offence under this Act would expire, the person to be charged is outside the United Kingdom, 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 United Kingdom.

Changes to legislation: There are currently no known outstanding effects for the Prevention of Oil Pollution Act 1971, Cross Heading: Enforcement. (See end of Document for details)

[^{F12}(4A) Any document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under section 2(2A) of this Act alleged to have been committed by the company as the owner of a vessel shall be treated as duly served on that company if the document is served on the master of the vessel; and any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Act (whether or not in pursuance of the foregoing provisions of this subsection) shall, for that purpose, have the right to go on board the vessel in question.

(4B) In subsection (4A) of this section a “ foreign company ” means a company or body which is not one [^{F13}to which section 1139 of the Companies Act 2006 applies so as to authorise service of the document in question.]]

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

[^{F14}(5A) If an inshore fisheries and conservation authority for a district established under section 149 of the Marine and Coastal Access Act 2009, or any inshore fisheries and conservation officer appointed by the authority under section 165 of that Act, is authorised in that behalf under subsection (1) of this section, the authority may institute proceedings for any offence under this Act committed within the district.]

^{F15}(6)

(7) The preceding provisions of this section do not apply in relation to an offence under section 3 of this Act, but proceedings for such an offence may—

- (a) in England and Wales, be brought only by or with the consent of the Director of Public Prosecutions; and
- (b) in Northern Ireland, be brought only by or with the consent of the Attorney General for Northern Ireland;

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 United Kingdom.

(8) Where a body corporate is guilty of an offence under section 3 of this Act and the offence is proved to have been committed with with the consent or connivance of, or to be attributable to any neglect on the part of, any 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 the offence and shall be liable to be proceeded against and punished accordingly.

In this subsection, “director” in relation to a body corporate established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Textual Amendments

F11 S. 19(2)(b)(c) repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch. 12** (with s. 312(1), **Sch. 14** para. 1)

F12 S. 19 (4A)(4B) inserted by **Environmental Protection Act 1990** (c. 43, SIF 46:4), s. 148(1), **Sch. 14** para. 2

Changes to legislation: There are currently no known outstanding effects for the Prevention of Oil Pollution Act 1971, Cross Heading: Enforcement. (See end of Document for details)

- F13** Words in s. 19(4B) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 22** (with art. 10)
- F14** S. 19(5A) inserted (1.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 8**; S.I. 2011/556, art. 2(2)(k)
- F15** S. 19(6) repealed (1.4.2010 for W. and 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 812); S.I. 2011/556, art. 2(1)(2)(o) (3)

Modifications etc. (not altering text)

- C5** S. 19(4) excluded (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 59**; S.I. 1993/3137, art. 3(2), **Sch. 2**
- C6** Power to apply conferred by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 148(2)**
- C7** S. 19(5) excluded (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 60**; S.I. 1993/3137, art. 3(2), **Sch. 2**

Marginal Citations

- M2** 1865 c. 125.

[^{F16F17}**19** **Power to detain vessels.**

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Textual Amendments

- F16** S. 19A inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 148(1), **Sch. 14 para. 3**
- F17** S. 19A repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch. 12** (with s. 312(1), Sch. 14 para. 1)

Modifications etc. (not altering text)

- C8** Power to apply conferred by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 148(2)**

^{F18}**20** **Enforcement and application of fines.**

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Textual Amendments

- F18** S. 20 repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch. 12** (with s. 312(1), Sch. 14 para. 1)

Modifications etc. (not altering text)

- C9** S. 20 extended with modifications by S.I. 1989/1350, art. 3, **Sch. 2**
- C10** Power to apply conferred by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 148(2)**

^{F19}**21** **Enforcement of Conventions relating to oil pollution.**

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Textual Amendments

- F19** S. 21 repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch. 12** (with s. 312(1), Sch. 14 para. 1)

Changes to legislation:

There are currently no known outstanding effects for the Prevention of Oil Pollution Act 1971,
Cross Heading: Enforcement.