



Prevention of Oil Pollution Act 1971

1971 CHAPTER 60

Enforcement

17 Oil records

- (1) The Secretary of State may make regulations requiring oil record books to be carried in ships registered in the United Kingdom and requiring the master of any such ship to record in the oil record book carried by it—
 - (a) the carrying out, on board or in connection with the ship, of such of the following operations as may be prescribed, that is to say, operations relating to—
 - (i) the loading of oil cargo, or
 - (ii) the transfer of oil cargo during a voyage, or
 - (iii) the discharge of oil cargo, or
 - (iv) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks, or
 - (v) the separation of oil from water, or from other substances, in any mixture containing oil, or
 - (vi) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in the preceding sub-paragraphs, or
 - (vii) the disposal of any other oil residues;
 - (b) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life;
 - (c) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from the ship in consequence of damage to the ship, or by reason of leakage.
- (2) The Secretary of State may make regulations requiring the keeping of records relating to the transfer of oil to and from vessels while they are within the seaward limits of the territorial waters of the United Kingdom; and the requirements of any regulations

made under this subsection shall be in addition to the requirements of any regulations made under subsection (1) of this section.

- (3) Any records required to be kept by regulations made under subsection (2) of this section shall, unless the vessel is a barge, be kept by the master of the vessel, and shall, if the vessel is a barge, be kept, in so far as they relate to the transfer of oil to the barge, by the person supplying the oil and, in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.
- (4) Regulations under this section requiring the carrying of oil record books or the keeping of records may—
 - (a) prescribe the form of the oil record books or records and the nature of the entries to be made in them;
 - (b) require the person providing or keeping the books or records to retain them for a prescribed period;
 - (c) require that person, at the end of the prescribed period, to transmit the books or records to a place or person determined by or under the regulations;
 - (d) provide for the custody or disposal of the books or records after their transmission to such a place or person.
- (5) If any ship fails to carry such an oil record book as it is required to carry under this section the owner or master shall be liable on summary conviction to a fine not exceeding £500 if any person fails to comply with any requirements imposed on him by or under this section, he shall be liable on summary conviction to a fine not exceeding £500 ; and if any person makes an entry in any oil record book carried or record kept under this section which is to his knowledge false or misleading in any material particular, he shall be liable on summary conviction to a fine not exceeding £500, or imprisonment for a term not exceeding six months, or both, or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both.
- (6) In any proceedings under this Act—
 - (a) any oil record book carried or record kept in pursuance of regulations made under this section shall be admissible as evidence, and in Scotland shall be sufficient 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, and in Scotland shall be sufficient 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.

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) Section 729 of the Merchant Shipping Act 1894 (powers of inspectors) shall apply to persons appointed or taken to be appointed under subsection (1) of this section as it applies to the inspectors referred to in that section and shall, as so applying, have effect as if—
 - (a) in paragraph (a) of subsection (1) of that section, the reference to a ship included any vessel, and the reference to that Act were a reference to this Act and any regulations made under this Act; and
 - (b) any power under that section to inspect premises included power to inspect any apparatus used for transferring oil.
 - (4) Any power of an inspector, under section 729 as applied by the preceding subsection, to inspect a vessel shall include power to test any equipment with which the vessel is required to be fitted in pursuance of regulations made under section 4 of this Act.
 - (5) Any power of an inspector, under section 729 as so applied, to require the production of any oil record book required to be carried or records required to be kept in pursuance of regulations made under section 17 of this Act shall include power to copy any entry therein and require the master to certify the copy as a true copy of the entry; and in subsection (3) of section 729, as so applied, the reference to making a declaration shall be construed as a reference to the certification of such a copy.
 - (6) Without prejudice to any powers exercisable by virtue of the preceding provisions of this section, in the case of a vessel which is for the time being in a harbour in 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 £10; and if any person wilfully obstructs

a person acting in the exercise of any power conferred by virtue of this section, he shall be liable on summary conviction to a fine not exceeding £100.

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;
 - (b) any offence in relation to such a harbour under section 10 or section 11 of this Act;
 - (c) any offence under section 17 of this Act relating to the keeping of records of the transfer of oil within such a harbour ; and
 - (d) any offence under section 18 of this Act in respect of a failure to comply with a requirement of a harbour master, or in respect of obstruction of a harbour master acting in the exercise of any power conferred by virtue of that section.
- (3) The preceding provisions of this section shall apply in relation to any part of a dockyard port within the meaning of the 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.
- (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.
- (6) If a local fisheries committee constituted by an order made, or having effect as if made, under section 1 of the Sea Fisheries Regulation Act 1966 or any of its officers is authorised in that behalf under subsection (1) of this section, the committee may institute proceedings for any offence under this Act committed within the district of the committee.

- (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 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.

20 Enforcement and application of fines

- (1) Where a fine imposed by a court in proceedings against the owner or master of a vessel for an offence under this Act is not paid at the time ordered by the court, the court shall, in addition to any other powers for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or poinding and sale of the vessel, her tackle, furniture and apparel.
- (2) Where a person is convicted of an offence under section 1 or section 2 of this Act, and the court imposes a fine in respect of the offence, then if it appears to the court that any person has incurred, or will incur, expenses in removing any pollution, or making good any damage, which is attributable to the offence, the court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

21 Enforcement of Conventions relating to oil pollution

- (1) Her Majesty may by Order in Council empower such persons as may be designated by or under the Order to go on board any Convention ship while the ship is within a harbour in the United Kingdom, and to require production of any oil record book required to be carried in accordance with the Convention.
- (2) An Order in Council under this section may, for the purposes of the Order, and with any necessary modifications, apply any of the provisions of this Act relating to the production and inspection of oil record books and the taking of copies of entries therein, and to the admissibility in evidence of such oil record books and copies, including any provisions of the Merchant Shipping Act 1894 applied by those provisions, and including any penal provisions of this Act in so far as they relate to those matters.
- (3) Her Majesty, if satisfied that the government of any country has accepted, or denounced, the Convention, or that the Convention extends, or has ceased to extend, to any territory, may by Order in Council make a declaration to that effect.

Status: This is the original version (as it was originally enacted).

- (4) In this section “the Convention ” means any Convention accepted by Her Majesty's Government in the United Kingdom in so far as it relates to the prevention of pollution of the sea by oil; and “Convention ship ” means a ship registered in—
- (a) a country the government of which has been declared by an Order in Council under the preceding subsection 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.