

Status: Point in time view as at 01/02/1991.

Changes to legislation: Environmental Protection Act 1990, Paragraph 3 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 14

AMENDMENTS OF THE PREVENTION OF OIL POLLUTION ACT 1971

3 After that section there shall be inserted the following section—

“19A Power to detain vessels.

- (1) Where a harbour master has reason to believe that the master or owner of a vessel has committed an offence under section 2(2A) of this Act by the discharge from the vessel of oil, or a mixture containing oil, into the waters of the harbour, the harbour master may detain the vessel.
- (2) Subsections (1) and (2) of section 692 of the Merchant Shipping Act 1894 (enforcing detention of ship) shall apply in relation to a vessel detained under subsection (1) of this section as they apply in relation to a ship detained under that Act but as if—
 - (a) in subsection (1) (penalties where ship proceeds to sea while subject to detention)—
 - (i) for the words from “any commissioned officer” to “and if” there were substituted the word “ and ”; and
 - (ii) for the reference to competent authority there were substituted a reference to the harbour authority; and
 - (b) in subsection (2) (penalties where a ship so proceeds to sea when any officer authorised to detain the ship is on board), for any reference to any officer authorised to detain the ship, or any surveyor or officer of the Secretary of State or any officer of Customs and Excise there were substituted a reference to the harbour master or any person acting on his behalf.
- (3) Where a harbour master detains a ship other than a United Kingdom ship (within the meaning of section 21(2) of the Merchant Shipping Act 1979) under this section he shall immediately notify the Secretary of State who shall then inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.
- (4) A harbour master who exercises the power conferred by subsection (1) of this section shall immediately release the vessel—
 - (a) if no proceedings for the offence in question are instituted within the period of 7 days beginning with the day on which the vessel is detained;
 - (b) if such proceedings, having been instituted within that period, are concluded without the master or owner being convicted;
 - (c) if either—

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- (i) the sum of £55,000 is paid to the harbour authority by way of security, or
 - (ii) security which, in the opinion of the harbour authority, is satisfactory and is for an amount not less than £55,000 is given to the harbour authority,
- by or on behalf of the master or owner; or
- (d) where the master or owner is convicted of the offence, if any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid.
- (5) The harbour authority shall repay any sum paid in pursuance of subsection (4)(c) of this section or release any security so given—
- (a) if no proceedings for the offence in question are instituted within the period of 7 days beginning with the day on which the sum is paid; or
 - (b) if such proceedings, having been instituted within that period, are concluded without the master or owner being convicted.
- (6) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (4)(c) of this section and the master or owner is convicted of the offence in question, the sum so paid or the amount made available under the security shall be applied as follows—
- (a) first in payment of any costs or expenses ordered by the court to be paid by the master or owner; and
 - (b) next in payment of any fine imposed by the court;
- and any balance shall be repaid to the first mentioned person.
- (7) Any reference in this section to a harbour master or a harbour authority shall, where the harbour in question consists of or includes the whole or any part of a dockyard port within the meaning of the Dockyard Ports Regulation Act 1865, be construed as including a reference to the Queen’s harbour master for the port.
- (8) For the purposes of this section in its application to England and Wales and, subject to section 30(4A) of this Act, in its application to Northern Ireland—
- (a) proceedings for an offence are instituted—
 - (i) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates’ Courts Act 1980 in respect of the offence,
 - (ii) when a person is charged with the offence after being taken into custody without a warrant,
 - (iii) when a bill of indictment is preferred by virtue of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933;

and where the application of this paragraph would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times; and
 - (b) proceedings for an offence are concluded without the master or owner being convicted on the occurrence of one of the following events—
 - (i) the discontinuance of the proceedings;

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- (ii) the acquittal of the master or owner;
 - (iii) the quashing of the master or owner's conviction for the offence;
 - (iv) the grant of Her Majesty's pardon in respect of the master or owner's conviction for the offence.
- (9) For the purposes of this section in its application to Scotland—
- (a) proceedings for an offence are instituted—
 - (i) on the granting by the sheriff of a warrant in respect of the offence on presentation of a petition under section 12 of the Criminal Procedure (Scotland) Act 1975;
 - (ii) when, in the absence of a warrant or citation, the master or owner is first brought before a court competent to deal with the case;
 - (iii) when, in a case where he is liberated upon a written undertaking in terms of section 18(2)(a), 294(2)(a) or 295(1)(a) of the Criminal Procedure (Scotland) Act 1975, the master or owner appears at the specified court at the specified time;
 - (iv) when, in a case mentioned in paragraph (iii) above where the master or owner fails to appear at the specified court at the specified time, the court grants warrant for his apprehension;
 - (v) when summary proceedings are commenced in terms of section 331(3) of the Criminal Procedure (Scotland) Act 1975; and
 - (b) proceedings for an offence are concluded without the master or owner being convicted on the occurrence of one of the following events—
 - (i) the court makes a finding of not guilty or not proven against the master or owner in respect of the offence;
 - (ii) the proceedings are expressly abandoned (other than *pro loco et tempore*) by the prosecutor or are deserted simpliciter;
 - (iii) the conviction is quashed;
 - (iv) the accused receives Her Majesty's pardon in respect of the conviction.
- (10) This section shall not apply in relation to any vessel of Her Majesty's navy or to any Government ship (within the meaning of section 80 of the Merchant Shipping Act 1906)."

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