



Merchant Shipping (Salvage and Pollution) Act 1994

1994 CHAPTER 28

Salvage

1 Salvage Convention, 1989 to have force of law

- (1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 1 to this Act (in this section and in Part II of that Schedule referred to as “the Convention”) shall have the force of law in the United Kingdom.
- (2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and subsection (1) above shall have effect subject to the provisions of that Part.
- (3) If it appears to Her Majesty in Council that the government of the United Kingdom has agreed to any revision of the Convention She may by Order in Council make such modifications of Parts I and II of Schedule 1 to this Act as She considers appropriate in consequence of the revision.
- (4) Nothing in subsection (1) or (2) above or in any modification made by virtue of subsection (3) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the day on which this section or, as the case may be, the modification comes into force.
- (5) This section may be brought into force before the entry into force of the Convention and as respects any such period any reference in the Convention to a State Party to the Convention shall be read as a reference to the United Kingdom.
- (6) The provisions of Schedule 2 to this Act (which make amendments consequential on subsections (1) and (2) above) shall have effect; but nothing in any such amendment shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the day on which the amendment comes into force.

- (7) A draft of an Order in Council proposed to be made by virtue of subsection (3) above shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament.

Marine Pollution

2 Power to implement 1990 OPRC Convention

- (1) Section 20 of the Merchant Shipping Act 1979 (power by Order in Council to implement international conventions relating to pollution from ships, etc) shall have effect with the insertion in subsection (1), after paragraph (c), of the following paragraph—

“(cc) the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (including the Final Act of the Conference and the attached resolutions) signed in London on 30th November 1990;”.

- (2) In consequence of the amendment made by subsection (1) above, in subsection (6) of that section for the words “(a) to (c)” there shall be substituted the words “(a) to (cc)”.

3 Amendments as to powers of implementation

- (1) Section 20 of the Merchant Shipping Act 1979 (power by Order in Council to implement international conventions relating to pollution from ships, etc) shall be amended as follows.

- (2) In subsection (3)(a), in the list of enactments there specified, after the entry for the Merchant Shipping Act 1970, there shall be inserted the following entry—

“section 33 of the Merchant Shipping Act 1988 (which relates to investigations of marine accidents);”.

- (3) In subsection (4), after paragraph (a), there shall be inserted the following paragraph—

“(aa) make provision in terms of any document which the Secretary of State or any person considers relevant from time to time;”.

- (4) After subsection (4), there shall be inserted the following subsections—

“(4A) Where an Order in Council under subsection (1) of this section authorises the making of regulations for the purpose of giving effect to an agreement mentioned in paragraphs (a) to (cc) or falling within paragraph (d) of that subsection the Order also authorises the making of regulations for the purpose of giving effect to an agreement which provides for the modification of such an agreement.

This subsection applies in relation to Orders in Council and international agreements whenever made.

- “(4B) Regulations made by virtue of paragraph (e) of subsection (4) of this section—

- (a) may make provision corresponding to the provision authorised for an Order by paragraphs (a) to (d) of subsection (4) of this section; and
(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

4 Prevention of pollution from ships: further power to implement international agreements

After section 20 of the Merchant Shipping Act 1979 there shall be inserted the following section—

“20A Further provision for prevention of pollution from ships

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to any provision of the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) for the protection and preservation of the marine environment from pollution by matter from ships.
- (2) Without prejudice to the generality of subsection (1) of this section, an Order under that subsection may in particular include provision—
 - (a) corresponding to any provision that is authorised for the purposes of section 20 of this Act by subsections (3) and (4) of that section; and
 - (b) specifying areas of sea above any of the areas for the time being designated under section 1(7) of the Continental Shelf Act 1964 as waters within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part XII of that Convention for the protection and preservation of the marine environment;and provision authorising the making of regulations authorises the amendment or revocation of regulations made by virtue of paragraph (e) of the said subsection (4).
- (3) A draft of an Order in Council proposed to be made by virtue of subsection (1) of this section shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament.”

5 Liability and compensation for oil pollution damage: 1992 Protocols

- (1) For the purpose of enabling effect to be given to the 1992 Protocols, the Merchant Shipping (Oil Pollution) Act 1971 and the Merchant Shipping Act 1974 shall have effect subject to the amendments contained in Parts I and II respectively of Schedule 4 to the Merchant Shipping Act 1988 with the substitution, in the definition in section 19(1) of the 1971 Act of “the Convention” and in the definitions in section 1(1) of the 1974 Act of “the Liability Convention” and “the Fund Convention”, of “1992” for “1984”.
- (2) Accordingly—
 - (a) the word “1984” shall be omitted from the section 4A(1) of the 1974 Act and the paragraph 4(a) and (d) constituting Schedule 1 to the 1974 Act as respectively inserted and substituted by Part II of Schedule 4 to the 1988 Act; and
 - (b) paragraph 18 of Schedule 4 to the Merchant Shipping (Registration, etc.) Act 1993 (which provides that section 34 of and Schedule 4 to the 1988 Act shall not have effect) is hereby repealed and the entry for Schedule 4 to the 1988 Act shall be deemed not to have been included in Part II of Schedule 5 to the 1993 Act (pre-consolidation repeals).

- (3) Her Majesty may by Order in Council make such provision as appears to Her Majesty to be appropriate in connection with the implementation of any transitional provisions contained in the 1992 Protocols or the Conventions which they amend; and any such Order may in particular provide, in relation to occurrences of any description specified in the Order—
- (a) for provisions of the 1971 Act or the 1974 Act to have effect—
 - (i) to such extent as is so specified, as if Schedule 4 to the 1988 Act were not in force, and
 - (ii) to such extent as is so specified, as if that Schedule were in force;
 - (b) for any such provisions to have effect (whether as amended by that Schedule or not) subject to such modifications as are so specified.
- (4) In this section “the 1992 Protocols” means—
- (a) the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage 1969 signed in London on 27th November 1992; and
 - (b) the Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 signed in London on 27th November 1992.

6 Extension of strict liability for oil pollution by ships

- (1) The Merchant Shipping (Oil Pollution) Act 1971 shall be amended as provided in Schedule 3 (amendments imposing on other ships liability for oil pollution corresponding to that imposed on tankers).
- (2) In Part I of that Schedule “the 1971 Act” means the Merchant Shipping (Oil Pollution) Act 1971 without the amendments made by Part I of Schedule 4 to the Merchant Shipping Act 1988.
- (3) In Part II of that Schedule “the 1971 Act” means the Merchant Shipping (Oil Pollution) Act 1971 as amended by Part I of Schedule 4 to the Merchant Shipping Act 1988 (“the 1988 Act”) and section 5 of this Act.
- (4) Where the amendments of the 1971 Act made by Part II of Schedule 3 to this Act come into force after the 1971 Act has been amended by Part I of the said Schedule 3, Parts I and II of that Schedule shall have effect with the modifications specified in Part III of that Schedule.

7 Extension of rights of Fund by subrogation

- (1) In section 8 of the Merchant Shipping Act 1974 (Acquisition by International Fund of rights of recipients of payments made by the Fund in cases of oil pollution damage)—
 - (a) for subsection (1), there shall be inserted the following subsection—
 - “(1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person,”; and
 - (b) subsection (3) shall be omitted.

- (2) The amendments made by subsection (1) above apply in relation to payments made by the Fund after this section comes into force.

8 Functions of Secretary of State in relation to marine pollution

- (1) The Secretary of State shall continue to have the functions of taking, or co-ordinating, measures to prevent, reduce and minimise the effects of, marine pollution.
- (2) Without prejudice to the generality of subsection (1) above, the functions of the Secretary of State under that subsection include—
- (a) the acquisition, maintenance, use and disposal of ships, aircraft, equipment and other property;
 - (b) the provision of services, including research, training and advice;
 - (c) the giving of assistance to any other State or international institution under any international agreement relating to the prevention, reduction or control of marine pollution; and
 - (d) any other functions exercisable on his behalf at the commencement of this section by the Marine Pollution Control Unit.
- (3) Assistance under subsection (2)(c) above shall be given on such terms as will secure reimbursement of the cost of giving the assistance if and to the extent that reimbursement will be practicable in the circumstances.
- (4) The Secretary of State may make reasonable charges for the supply of goods or services.
- (5) In this section—
- “marine pollution” means pollution caused by ships, offshore installations or submarine pipelines affecting or likely to affect the United Kingdom or United Kingdom waters or controlled waters;
 - “offshore installation” means any installation which is maintained for underwater exploitation or exploration to which the Mineral Working (Offshore Installations) Act 1971 applies;
 - “pipeline” has the same meaning as in Part III of the Petroleum and Submarine Pipelines Act 1975 and “submarine” means in, under or over United Kingdom waters or controlled waters;
 - “United Kingdom waters” means any part of the sea within the seaward limits of United Kingdom territorial waters and “United Kingdom controlled waters” means any part of the sea within the limits of any area designated under section 1(7) of the Continental Shelf Act 1964;
- but no restriction as to the seas to which functions under this section extend is implied as regards the functions mentioned in subsection (2)(c) above.
- (6) In section 12 of the Prevention of Oil Pollution Act 1971 (powers of Secretary of State to prevent or reduce oil pollution in the event of a shipping accident), in subsection (9), after the definition of “accident” there shall be inserted the following—
- ““owner”, in relation to the ship to or in which an accident has occurred, includes its owner at the time of the accident; and”.

General

9 Expenses

There shall be paid out of money provided by Parliament—

- (a) any expenses incurred by the Secretary of State under this Act; and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

10 Short title, citation, construction, repeals, commencement and extent

- (1) This Act may be cited as the Merchant Shipping (Salvage and Pollution) Act 1994 and the Merchant Shipping Acts 1894 to 1993 and this Act may be cited as the Merchant Shipping Acts 1894 to 1994.
- (2) This Act shall be construed as one with the Merchant Shipping Acts 1894 to 1993.
- (3) The enactments mentioned in Schedule 4 to this Act are repealed to the extent specified in the third column of that Schedule.
- (4) This Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be appointed for different provisions.
- (5) This Act extends to England and Wales, Scotland and Northern Ireland.