



Merchant Shipping and Maritime Security Act 1997

1997 CHAPTER 28

Extension of powers to deal with emergencies at sea

1 Temporary exclusion zones

In the Merchant Shipping Act 1995 (in this Act referred to as “the 1995 Act”), after section 100 there is inserted—

“Temporary exclusion zones

100A Power to establish temporary exclusion zones

- (1) Subsection (2) below applies where a ship, structure or other thing—
 - (a) is in United Kingdom waters or a part of the sea specified by virtue of section 129(2)(b); and
 - (b) is wrecked, damaged or in distress;and in this section and section 100B “the relevant casualty” means that ship, structure or other thing.
- (2) If it appears to the Secretary of State—
 - (a) that significant harm will or may occur as a direct or indirect result of the relevant casualty being wrecked, damaged or in distress, and
 - (b) that if access to an area around the relevant casualty were restricted in accordance with section 100B, significant harm, or the risk of such harm, would be prevented or reduced,he may by direction identify an area to which access is so restricted (“a temporary exclusion zone”).
- (3) In this section “significant harm” means—
 - (a) significant pollution in the United Kingdom, in United Kingdom waters or in a part of the sea specified by virtue of section 129(2)(b); or

- (b) significant damage to persons or property.
- (4) A temporary exclusion zone may not include any area which is neither within United Kingdom waters nor within a part of the sea specified by virtue of section 129(2)(b).
- (5) If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is larger than is needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction vary the direction establishing the zone accordingly.
- (6) Subject to subsections (4) and (5) above, a temporary exclusion zone may be identified by reference to the position of the relevant casualty from time to time.
- (7) If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is not needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction revoke the direction establishing the zone.
- (8) Where the Secretary of State gives a direction under this section, he shall—
 - (a) as soon as practicable, publish it in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it; and
 - (b) within the period of 24 hours from the giving of the direction, send a copy of it to the International Maritime Organization.
- (9) Subsection (2) above does not apply where an order under section 2 of the Protection of Wrecks Act 1973 has effect in relation to the relevant casualty.

100B Temporary exclusion zones: offences

- (1) If a direction establishing a temporary exclusion zone contains a statement of a description mentioned in subsection (2) below, then, subject to subsection (4) below, no ship shall enter or remain in the zone.
- (2) The statement is one to the effect that the direction is given for the purpose of preventing or reducing significant pollution, or the risk of significant pollution, in the United Kingdom, in United Kingdom waters or in a part of the sea specified by virtue of section 129(2)(b).
- (3) If a direction establishing a temporary exclusion zone does not contain a statement of a description mentioned in subsection (2) above, then, subject to subsections (4) and (5) below—
 - (a) no ship shall enter or remain in any part of the zone that is in United Kingdom waters; and
 - (b) no United Kingdom ship shall enter or remain in any part of the zone that is in a part of the sea specified by virtue of section 129(2)(b).
- (4) A ship may enter or remain in a temporary exclusion zone or a part of such a zone if it does so—
 - (a) in accordance with the direction establishing the zone;
 - (b) with the consent of the Secretary of State; or
 - (c) in accordance with regulations made by the Secretary of State for the purposes of this section.

- (5) A qualifying foreign ship may enter a temporary exclusion zone or a part of such a zone if in doing so it is exercising the right of transit passage through straits used for international navigation.
- (6) If a ship enters or remains in a temporary exclusion zone or a part of such a zone in contravention of subsection (1) or (3) above then, subject to subsection (7) below, its owner and its master shall each be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding £50,000;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (7) It shall be a defence for a person charged with an offence under this section to prove that the existence or area of the temporary exclusion zone was not, and would not on reasonable enquiry have become, known to the master.”

2 Powers of intervention where shipping accident threatens pollution

- (1) Section 137 of the 1995 Act (powers of Secretary of State to give directions and take other action where a shipping accident threatens pollution on a large scale in the United Kingdom or in United Kingdom waters) is amended in accordance with subsections (2) to (4).
- (2) In subsection (1)(b) for “cause pollution on a large scale in the United Kingdom or United Kingdom waters” there is substituted “cause significant pollution in the United Kingdom, United Kingdom waters or a part of the sea specified by virtue of section 129(2)(b)”.
- (3) In subsection (2)—
 - (a) after sub-paragraph (b) there is inserted—

“(bb) to any pilot of the ship, or”; and
 - (b) at the end there is inserted “or
 - (d) where the ship is in waters which are regulated or managed by a harbour authority—
 - (i) to the harbour master, or
 - (ii) to the harbour authority.”
- (4) In subsection (9)—
 - (a) for the definition of “accident” there is substituted—

““accident” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo;”; and
 - (b) after the definition of “owner” there is inserted—

““pilot” means any person not belonging to a ship who has the conduct of the ship;”.
- (5) In section 141 of the 1995 Act (application of sections 137 to 140 etc. to certain ships which are outside United Kingdom waters), in subsections (1)(b) and (3), for “outside United Kingdom waters” there is substituted “neither within United Kingdom waters nor within a part of the sea specified by virtue of section 129(2)(b)”.

(6) Nothing in this section affects—

- (a) any Order in Council which, immediately before the commencement of this section, has effect under section 141(1) of the 1995 Act; or
- (b) any Order in Council or instrument which, immediately before the commencement of this section, has effect under any other provision of the 1995 Act and which applies section 137 of the 1995 Act.

3 Powers of intervention in cases of pollution by substances other than oil

(1) After section 138 of the 1995 Act there is inserted—

“138A Application of sections 137 and 138 to pollution by substances other than oil

- (1) In sections 137 and 138, any reference to oil pollution includes a reference to pollution by any other substance which—
 - (a) is prescribed by the Secretary of State by order for the purposes of this section, or
 - (b) although not so prescribed, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.
- (2) Accordingly, any reference in those sections to oil includes a reference to any substance falling within subsection (1)(a) or (b) above.”

(2) Nothing in this section affects—

- (a) so much of any Order in Council as, immediately before the commencement of this section, has effect under section 141(1) of the 1995 Act; or
- (b) any Order in Council or instrument which, immediately before the commencement of this section, has effect under any other provision of the 1995 Act and which applies sections 137 and 138 of the 1995 Act.

4 Powers of fire authorities

In section 3 of the Fire Services Act 1947 (supplementary powers of fire authorities), in subsection (1), after paragraph (d) there is inserted—

- “(dd) to employ the fire brigade maintained by them, or use any equipment so maintained, at sea (whether or not within the territorial sea of the United Kingdom);”.