

1987 No. 666

MARINE POLLUTION

**The Food and Environment Protection Act 1985
(Isle of Man) Order 1987**

Made - - - - - *7th April 1987*

Coming into force - - - - - *1st May 1987*

At the Court at Windsor Castle, the 7th day of April 1987

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 26(1) and (2) of the Food and Environment Protection Act 1985(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Food and Environment Protection Act 1985 (Isle of Man) Order 1987 and shall come into force on 1st May 1987.
2. Part II (including Schedules 2 to 4) and Part IV of the Food and Environment Protection Act 1985 shall extend to the Isle of Man with the exceptions, adaptations and modifications specified in the Schedule to this Order.

G. I. de Deney
Clerk of the Privy Council

SCHEDULE

Article 2

**EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN THE EXTENSION
OF PROVISIONS OF THE FOOD AND ENVIRONMENT PROTECTION ACT
1985 TO THE ISLE OF MAN**

1. Any reference to, or to a provision of, an Act of Parliament (including the Food and Environment Protection Act 1985) shall be construed, unless the contrary intention appears, as a reference to it as it has effect in the Isle of Man.
2. Except in the expression "Her Majesty's Government in the United Kingdom", for the words "United Kingdom" wherever they occur there shall be substituted the words "Isle of Man".

(a) 1985 c.48.

3. Except in sections 12 and 24(3), for any reference to—
 - (a) the Ministers, one or other of the Ministers or either of the Ministers; or
 - (b) a licensing authority,
 there shall be substituted a reference to the Department.

4. In section 5(b)(i) and (ii) and (e)(ii), for the words “British vessel, British aircraft, British hovercraft or British marine structure” there shall be substituted the words “Manx vessel, Manx hovercraft or Manx marine structure”.

5. In section 6(1)(a)(ii), for the word “British” in both places where it occurs there shall be substituted the word “Manx”.

6. In section 7—
 - (a) in subsection (1), for the words “jointly by order made by statutory instrument” there shall be substituted the words “by order”; and
 - (b) for subsection (4) there shall be substituted the following subsection:—

“(4) An order under this section shall not have effect unless it is approved by Tynwald.”.

7. In section 8—
 - (a) in subsection (6), the words “, and in Scotland sufficient evidence,” shall be omitted; and
 - (b) in subsection (9) for the words from “Treasury” to the end there shall be substituted the words “Treasury of the Isle of Man”.

8. In section 11—
 - (a) in subsection (2)(c), for the words “British vessels, British aircraft, British hovercraft and British marine structures” there shall be substituted the words “Manx vessels, Manx hovercraft and Manx marine structures”;
 - (b) in subsection (3)(b), for the words “British vessel” there shall be substituted the words “Manx vessel”; and
 - (c) at the end there shall be added the following subsection:—

“(6) In the case of Manx hovercraft and Manx marine structures, any reference in this section or in Schedule 2 to this Act to a person authorised to enforce this Part of this Act shall include a reference to a person so authorised under this section as it has effect in the United Kingdom.”.

9. In section 12, for subsection (3) there shall be substituted the following subsection:—

“(3) An order under this section as it has effect in the United Kingdom shall also have effect in the Isle of Man.”.

10. In section 14, after the words “the Treasury” there shall be inserted the words “of the Isle of Man”.

11. In section 15, subsections (2) to (6) shall be omitted.

12. For section 20 there shall be substituted the following section:—

“20.—(1) Subject to subsection (2) below, a person authorised to enforce Part II of this Act may perform any functions under this Act in relation to land in which there is a Crown interest or land which is held in trust for Her Majesty for the public service of the Isle of Man.

(2) Such a person shall not perform any functions—

 - (a) in relation to land in which there is no interest other than a Crown interest; or
 - (b) in relation to land which is exclusively in Crown occupation.

(3) In this section—

“Crown interest” means any interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department; and

“Crown occupation” means occupation by a government department.”.

13. In section 21—
 - (a) subsections (2) and (4) shall be omitted;
 - (b) in subsection (1)—
 - (i) for the words “to which this subsection applies” there shall be substituted the words “under section 9(1) above”, and

- (ii) in paragraph (b), for the word "indictment" there shall be substituted the word "information"; and
- (c) in subsection (3)-
 - (i) for the words "to which this subsection applies" there shall be substituted the words "under section 9(2) above", and
 - (ii) in paragraph (b), for the word "indictment" there shall be substituted the word "information".

14. For section 23 there shall be substituted the following section:-

"23.—(1) Any expenses of the Department incurred in consequence of the provisions of this Act shall be paid out of money provided by Tynwald.

(2) Any receipts of the Department under this Act shall be paid into the general revenue of the Isle of Man."

15. In section 24-

- (a) for subsection (1) there shall be substituted the following subsection:-

"(1) In this Act, unless the context otherwise requires-

"British fishery limits" has the meaning assigned to it by the Fishery Limits Act 1976(a);

"captain", in relation to a hovercraft, means the person who is designated by the operator to be in charge of it during any journey, or, failing such designation, the person who is for the time being lawfully in charge of it;

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of that aircraft by the operator, or, failing such designation, the person who is for the time being the pilot in command of the aircraft;

"Convention State" means a state which is a party to the London Convention or the Oslo Convention;

"the Department" means the Department of Highways, Ports and Properties of the Isle of Man;

"incineration" has the meaning assigned to it by section 6 above;

"Isle of Man waters" means any part of the sea within the seaward limits of the territorial waters adjacent to the Isle of Man;

"licence" means a licence under Part II of this Act;

"the London Convention" means the Convention on the Prevention of Maritime Pollution by Dumping of Wastes and Other Matter concluded at London in December 1972;

"Manx hovercraft" means a hovercraft, other than a hovercraft registered in the United Kingdom, owned or operated by an individual resident in, or a body incorporated under the law of, the Isle of Man;

"Manx marine structure" means a marine structure owned by or leased to an individual resident in, or a body incorporated under the law of, the Isle of Man;

"Manx vessel" means a vessel registered in the Isle of Man under the Merchant Shipping Act 1894(b) or under any Act of Tynwald;

"marine structure" means a platform or other man-made structure at sea, other than a pipe-line;

"master", in relation to any vessel, includes the person for the time being in charge of the vessel;

"the Ministers" means the Minister of Agriculture, Fisheries and Food and the Secretary of State;

"the Oslo Convention" means the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft concluded at Oslo in February 1972;

"sea" includes any area submerged at mean high water springs and also includes, so far as the tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river;

"the standard scale" means the standard scale as defined in section 75 of the Criminal Justice Act 1982(c);

(a) 1976 c.86.

(b) 1894 c.60.

(c) 1982 c.48, extended to the Isle of Man by S.I. 1983/1898.

“the statutory maximum” means the statutory maximum as defined in section 74 of that Act;

“vessel” has the meaning assigned to it by section 742 of the Merchant Shipping Act 1894.”; and

- (b) in subsection (3)–
 - (i) the words “or regulations” in both places where they occur shall be omitted; and
 - (ii) for the words “as the Minister” there shall be substituted the words “as the Department or the Minister”.

16. Sections 25, 26 and 27 shall be omitted.

17. In Schedule 2–

- (a) for paragraph 1, there shall be substituted the following paragraph:–

“1. Subject to section 11(6) of this Act, in this Schedule “officer” means a person authorised to enforce Part II of this Act.”;

- (b) in paragraph 3–

- (i) in sub-paragraph (1), for the words “Part I or II” there shall be substituted the words “Part II”, and

- (ii) sub-paragraphs (3) to (5) shall be omitted;

- (c) paragraph 5(3) shall be omitted; and

- (d) in paragraph 7–

- (i) in sub-paragraph (3) for paragraphs (a) and (b) there shall be substituted the words “a justice of the peace”, and

- (ii) sub-paragraph (4) shall be omitted.

18. In Schedule 3–

- (a) in paragraph 5, for the words “constitute a committee” there shall be substituted the words “appoint a person (in this Schedule referred to as “the appointed person”);

- (b) paragraphs 7 and 8 shall be omitted;

- (c) in paragraph 9–

- (i) for the word “chairman” there shall be substituted the words “appointed person”,

- (ii) in sub-paragraph (a), for the word “committee” there shall be substituted the words “appointed person”, and

- (iii) in sub-paragraph (b), for the words “of the meeting of the committee” there shall be substituted the words “at which he may attend to make such oral representations”;

- (d) in paragraph 10–

- (i) for the words “for the meeting of the committee” there shall be substituted the words “when he may attend which is”, and

- (ii) for the words “earlier meeting” there shall be substituted the words “earlier date”;

- (e) in paragraphs 11, 12 and 13, for any reference to the committee there shall be substituted a reference to the appointed person;

- (f) in paragraph 14, for the words “any hearing relating to them by a committee” there shall be substituted the words “attending before an appointed person”;

- (g) in paragraph 16, for the words “committee constituted” there shall be substituted the words “person appointed”; and

- (h) in paragraph 17–

- (i) in sub-paragraph (a), for the words “members of such committees” there shall be substituted the words “persons so appointed”,

- (ii) in sub-paragraph (b), for the words “committees” there shall be substituted the word “persons”, and

- (iii) after the word “Treasury” there shall be inserted the words “of the Isle of Man”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the Isle of Man, with the exceptions, adaptations and modifications specified in the Schedule to the Order, Part II of the Food and Environment Protection Act 1985 (deposits in the sea) together with certain provisions of Part IV of that Act (general and supplementary) which it appears appropriate to extend there.