

1988 No. 1084

MARINE POLLUTION

**The Environment Protection
(Overseas Territories) Order 1988**

Made - - - - - *22nd June 1988*

Coming into force - - - - - *21st July 1988*

At the Court at Buckingham Palace, the 22nd day of June 1988

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 26 of the Food and Environment Protection Act 1985(a), and of all other powers enabling Her in that behalf, 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 Environment Protection (Overseas Territories) Order 1988 and shall come into force on 21st July 1988.

2.—(1) The provisions of Parts II and IV of the Food and Environment Protection Act 1985 and Schedules 2, 3 and 4 thereto, modified and adapted as in Schedule 1 hereto, shall extend and apply to the Territories specified in Schedule 2 hereto.

(2) For the purpose of construing the said Act as so extended and applied as part of the law of a Territory to which it extends, "the Territory" means that Territory and "any Territory" means any of the Territories to which it extends.

3.—(1) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to the sums expressed in sterling in Schedule 1 hereto.

(2) A certificate given by or on behalf of the Governor in pursuance of paragraph (1) above shall be conclusive evidence of the matters stated therein for the purposes of this article, and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(a) 1985 c.48.

4.—(1) The Dumping at Sea Act 1974 (Overseas Territories) Order 1975(a) is revoked in respect of the territories to which this Order applies.

(2) Any licence under the Dumping at Sea Act 1974 (Overseas Territories) Order 1975 which is in force in respect of the territories to which this Order applies immediately before the coming into force of this Order—

- (a) shall have effect as from the coming into force of this Order as if granted under this Order; and
- (b) in the case of a licence for a specified period, shall remain in force, subject to the provisions of this Order, for so much of that period as falls after the coming into force of this Order.

G. I. de Deney
Clerk of the Privy Council

SCHEDULE 1

PARTS II AND IV OF, AND SCHEDULES 2, 3 AND 4 TO, THE FOOD AND ENVIRONMENT PROTECTION ACT 1985 AS EXTENDED TO THE TERRITORIES SPECIFIED IN SCHEDULE 2 OF THIS ORDER

PART II

DEPOSITS IN THE SEA

Licensing

Requirement of licences for deposit of substances and articles in the sea etc.

5. Subject to the following provisions of this Part of this Act, a licence under this Part of this Act is needed—

- (a) for the deposit of substances or articles within the territorial waters of the Territory, either in the sea or under the sea-bed—
 - (i) from a vehicle, vessel, aircraft, hovercraft or marine structure;
 - (ii) from a container floating in the sea; or
 - (iii) from a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea;
- (b) for the deposit of substances or articles anywhere in the sea or under the sea-bed—
 - (i) from a British vessel, British aircraft, British hovercraft or British marine structure; or
 - (ii) from a container floating in the sea, if the deposit is controlled from a British vessel, British aircraft, British hovercraft or British marine structure;
- (c) for the deposit of substances or articles anywhere within a fisheries zone of the Territory, either in the sea or under the sea-bed—
 - (i) from a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure which was loaded in the Territory or the territorial waters of the Territory with any of those substances or articles; or
 - (ii) from a container floating in the sea which was loaded with any of those substances or articles in the Territory or the territorial waters of the Territory, if the deposit is controlled from a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure;
- (d) for the deposit of substances or articles anywhere under the sea-bed within a fisheries zone of the Territory from a vehicle which was loaded in the Territory with any of those substances or articles;
- (e) for the scuttling of vessels—
 - (i) in the territorial waters of the Territory;

(a) S.I. 1975/1831.

- (ii) anywhere at sea, if the scuttling is controlled from a British vessel, British aircraft, British hovercraft or British marine structure; or
- (iii) anywhere at sea within a fisheries zone of the Territory, if it is controlled from a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure and the vessel scuttled was towed or propelled to the place where the scuttling takes place from the Territory or the territorial waters of the Territory;
- (f) for the loading of a vessel, aircraft, hovercraft, marine structure or floating container in the Territory or the territorial waters of the Territory with substances or articles for deposit anywhere in the sea or under the sea-bed;
- (g) for the loading of a vehicle in the Territory with substances or articles for deposit from that vehicle as mentioned in paragraph (a) or (d) above; and
- (h) for the towing or propelling from the Territory or the territorial waters of the Territory of a vessel for scuttling anywhere at sea.

6.— (1) Subject to the following provisions of this Part of this Act, a licence is needed—

- (a) for the incineration of substances or articles on a vessel or marine structure—
 - (i) in the territorial waters of the Territory;
 - (ii) anywhere at sea, if the incineration takes place on a British vessel or British marine structure; or
 - (iii) anywhere at sea within a fisheries zone of the Territory, if the incineration takes place on a foreign vessel or foreign marine structure which was loaded in the Territory or the territorial waters of the Territory with any of those substances or articles; and
- (b) for the loading of a vessel or marine structure in the Territory or the territorial waters of the Territory with substances or articles for incineration anywhere at sea.

Requirement of licences for incineration at sea etc.

(2) In this Act “incineration” means any combustion of substances and materials for the purpose of their thermal destruction.

7.— (1) The Governor may by regulations specify operations—

- (a) which are not to need a licence; or
- (b) which are not to need a licence if they satisfy conditions specified in the regulations.

Exemptions.

(2) The conditions that regulations under this section may specify include conditions enabling the Governor to require a person to obtain the Governor’s approval before he does anything for which a licence would be needed but for the regulations.

(3) Approval under subsection (2) above may be without conditions or subject to such conditions as the Governor considers appropriate.

8.— (1) In determining whether to issue a licence the Governor—

- (a) shall have regard to the need—
 - (i) to protect the marine environment, the living resources which it supports and human health; and
 - (ii) to prevent interference with legitimate uses of the sea; and
- (b) may have regard to such other matters as the Governor considers relevant.

Licences.

(2) Without prejudice to the generality of subsection (1) above, where it appears to the Governor that an applicant for a licence has applied for the licence with a view to the disposal of the substances or articles to which it would relate, the Governor, in determining whether to issue a licence, shall have regard to the practical availability of any alternative methods of dealing with them.

(3) The Governor—

- (a) shall include such provisions in a licence as appear to the Governor to be necessary or expedient—
 - (i) to protect the marine environment, the living resources which it supports and human health; and
 - (ii) to prevent interference with legitimate uses of the sea; and
- (b) may include in a licence such other provisions as the Governor considers appropriate.

(4) Without prejudice to the generality of subsection (3) above, the Governor—

- (a) may include in any licence provisions requiring—
 - (i) that no operation authorised by the licence shall be carried out until the Governor has given such further consent to or approval of the operation as the licence may specify; and

(ii) that automatic equipment shall be used for recording such information relating to any operation of deposit, scuttling or incineration mentioned in the licence as the Governor may specify; and

(b) may include in a licence which only authorises operations such as are mentioned in section 5(f) or (h) above or section 6(1)(b) above provisions requiring that any operation of deposit, scuttling or incineration which is mentioned in it shall take place at a specified site, whether in the territorial waters of the Territory or not.

(5) The Governor may require an applicant for a licence to supply such information and permit such examinations and tests as in the opinion of the Governor may be necessary or expedient to enable the Governor to decide whether a licence should be issued to the applicant and the provisions which any licence that is issued to him ought to contain.

(6) Where automatic recording equipment is used in accordance with a provision included in a licence by virtue of sub-section (4)(a) above, any record produced by means of the equipment shall, in any proceedings under this Part of this Act, be evidence of the matters appearing from the record.

(7) The Governor may require an applicant for a licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of processing his application.

(8) The Governor may also require an applicant for a licence to pay a further reasonable fee towards the expense—

(a) of carrying out any examinations and tests which in the opinion of the Governor are necessary or expedient to enable the Governor to decide—

(i) whether to issue a licence to the applicant; and

(ii) the provisions which any licence issued to him ought to include;

(b) of checking the manner in which operations for which a licence is needed have been or are being conducted; and

(c) of monitoring the effect of such operations.

(9) Fees under this section shall be determined on principles settled by the Governor after consultation with the organisations (if any) appearing to the Governor to represent persons who are likely to apply for licences.

(10) The Governor may vary or revoke a licence which he has issued if it appears to him that there has been a breach of any of its provisions.

(11) The Governor may vary or revoke a licence which he has issued if it appears to him that the licence ought to be varied or revoked—

(a) because of a change in circumstances relating to the marine environment, the living resources which it supports or human health; or

(b) because of increased scientific knowledge relating to any of those matters; or

(c) for any other reason that appears to him to be relevant.

(12) Schedule 3 to this Act shall have effect.

Offences relating to licensing system etc.

Offences relating to licensing system.

9.— (1) Subject to subsections (3) to (7) below, a person who—

(a) except in pursuance of a licence and in accordance with its provisions, does anything for which a licence is needed; or

(b) causes or permits any other person to do any such thing except in pursuance of a licence and in accordance with its provisions,

shall be guilty of an offence.

(2) A person who for the purpose of procuring the issue of a licence, or in purporting to carry out any duty imposed on him by the provisions of a licence—

(a) makes a statement which he knows to be false in a material particular;

(b) recklessly makes a statement which is false in a material particular; or

(c) intentionally fails to disclose any material particular,

shall be guilty of an offence.

(3) Subject to subsection (4) below, it shall be a defence for a person charged with an offence under subsection (1) above in relation to any operation to prove—

(a) that the operation was carried out for the purpose of securing the safety of a vessel, aircraft, hovercraft or marine structure or of saving life; and

(b) that he took steps within a reasonable time to inform the Governor—

(i) of the operation;

- (ii) of the locality and circumstances in which it took place; and
- (iii) of any substances or articles concerned.

(4) A person does not have the defence provided by subsection (3) above if the court is satisfied—

- (a) that the operation—
 - (i) was not necessary for any purpose mentioned in paragraph (a) of that subsection; and
 - (ii) was not a reasonable step to take in the circumstances; or
- (b) that it was necessary for one of those purposes but the necessity was due to the fault of the defendant.

(5) It shall be a defence for a person charged with an offence under subsection (1) above in relation to any operation—

- (a) which falls within section 5(b) or (e)(ii) or 6(1)(a)(ii) above; and
- (b) which was carried out outside the territorial waters of the Territory, to prove that subsections (6) and (7) below are satisfied in respect of that operation.

(6) This subsection is satisfied—

- (a) in respect of an operation falling within section 5(b) above, if the vessel, aircraft, hovercraft, marine structure or container (as the case may be) was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles deposited;
- (b) in respect of an operation falling within section 5(e)(ii) above, if the vessel scuttled was towed or propelled from a Convention State or the national or territorial waters of a Convention State to the place where the scuttling was carried out; or
- (c) in respect of an operation falling within section 6(1)(a)(ii) above, if the vessel or marine structure on which the incineration took place was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles incinerated.

(7) This subsection is satisfied in respect of an operation if the operation took place in pursuance of a licence issued by the responsible authority in the Convention State concerned and in accordance with the provisions of that licence.

10.— (1) The Governor may carry out any operation which appears to him to be necessary or expedient for the purpose of protecting the marine environment, the living resources which it supports and human health, or of preventing interference with legitimate use of the sea, in any case where anything for which a licence is needed appears to have been done otherwise than in pursuance of a licence and in accordance with its provisions.

Power to take remedial action.

(2) If the Governor carries out an operation under subsection (1) above, he may recover any expenses reasonably incurred by him in carrying it out from any person who has been convicted of an offence in consequence of the act or omission which made it appear to the Governor to be necessary or expedient to carry out the operation.

Enforcement

11.— (1) The Governor may authorise any person, subject to such limitations as may be specified in the instrument authorising him, to enforce this Part of this Act; and the following provisions of this Act shall be construed, in reference to a person so authorised, as subject to any such limitations.

Powers of officers.

(2) Subject to the following provisions of this Act, a person so authorised may enter—

- (a) land and vehicles in the Territory;
- (b) foreign vessels, foreign aircraft, foreign hovercraft and foreign marine structures in the Territory or within a fisheries zone of the Territory;
- (c) British vessels, British aircraft, British hovercraft and British marine structures, wherever they may be,

if he has reasonable grounds for believing that any substances or articles intended to be deposited in the sea or under the sea-bed or incinerated on a vessel or marine structure at sea are or have been present there.

(3) A person so authorised may board—

- (a) any vessel within a fisheries zone of the Territory; and
- (b) any British vessel wherever it may be,

if it appears to him that it is intended to be scuttled.

(4) A person so authorised shall not enter premises used only as a dwelling for the purpose of enforcing this Part of this Act.

(5) Schedule 2 to this Act shall have effect with respect to persons authorised to enforce this Part of this Act.

Enforcement of Conventions.

12.— (1) The Governor may by regulations—

- (a) declare that any procedure which has been developed for the effective application of the London Convention or the Oslo Convention and is specified in the regulations is an agreed procedure as between Her Majesty's Government in the Territory and the Government of any Convention State so specified; and
- (b) specify any of the powers conferred by this Act for the purpose of enforcing this Part of this Act as a power that may be exercised, by such persons in such circumstances and subject to such conditions or modifications as may be specified, for the purpose of enforcing that procedure.

(2) A person who exercises any powers by virtue of regulations under this section shall have the same rights and liabilities in relation to their exercise that a person authorised under section 11 above would have in relation to the exercise of any powers for the purpose of enforcing this Part of this Act.

Miscellaneous

Powers of Governor to test and to charge for testing.

13.— (1) At the request of any person the Governor may conduct tests for the purpose of ascertaining the probable effect on the marine environment and the living resources which it supports of using for the purpose of treating oil on the surface of the sea any substance produced for that purpose.

(2) If the Governor conducts any tests under this section, he may recover any expenses reasonably incurred by him in conducting them from any person at whose request they were conducted.

Duty of Governor to keep register of licences.

14. The Governor shall compile and keep available for public inspection free of charge at reasonable hours a register containing—

- (a) in respect of each licence issued by the Governor for an operation such as is mentioned in section 5(a), (b), (c), (d), (f) or (g) or section 6 above, the particulars specified in Part I of Schedule 4 to this Act; and
- (b) in respect of each licence so issued for an operation such as is mentioned in section 5(e) or (h) above, the particulars specified in Part II of that Schedule,

and shall furnish a copy of the entry relating to any such licence to any person on payment by him of such reasonable fee as the Governor may determine.

Repeal of the Dumping at Sea Act 1974.

15. The Dumping at Sea Act 1974 is hereby repealed.

PART IV

GENERAL AND SUPPLEMENTARY

Application to Crown etc.

20.— (2) Subject to subsection (3) below, a person to whom this subsection applies may perform any functions under Part II of this Act in relation to land in which there is a Crown interest.

(3) 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.

(4) Subsection (2) above applies to a person authorised to enforce Part II of this Act.

(5) In this section—

“Crown interest” means any interest belonging to Her Majesty in right of the government of the Territory;

“Crown occupation” means occupation by Her Majesty in right of the government of the Territory.

Offences—penalties etc.

21.— (1) A person guilty of an offence to which this subsection applies shall be liable—

- (a) on summary conviction, to a fine of an amount not exceeding £2,000; and
- (b) on conviction on indictment, to a fine or to imprisonment for a term of not more than two years or to both.

(2) The offences to which subsection (1) above applies are offences under section 9(1) above.

(3) A person guilty of an offence to which this subsection applies shall be liable—

- (a) on summary conviction, to a fine of an amount not exceeding £2,000; and
- (b) on conviction on indictment, to a fine.

(4) The offences to which subsection (3) above applies are offences under section 9(2) above.

(5) A person guilty of an offence under Schedule 2 to this Act shall be liable on summary conviction to a fine of an amount not exceeding £2,000.

(6) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a 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 that offence and be liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, subsection (6) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

22.— (1) In any proceedings for an offence under this Act it is a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

General
defence of due
diligence.

(2) Without prejudice to the generality of subsection (1) above, a person is to be taken to have established the defence provided by that subsection if he proves—

- (a) that he acted under instructions given to him by his employer; or
- (b) that he acted in reliance on information supplied by another person without any reason to suppose that the information was false or misleading,

and in either case that he took all such steps as were reasonably open to him to ensure that no offence would be committed.

(3) If in any case the defence provided by subsection (1) above involves an allegation that the commission of the offence was due to an act or omission by another person, other than the giving of instructions to the person charged with the offence by his employers, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as was then in his possession.

23.— (2) Any expenses of the Governor incurred in consequence of the provisions of this Act shall be paid out of the general revenues of the Territory.

Financial
provisions.

(3) Any receipts of the Governor under this Act shall be paid into the general revenues of the Territory.

24.— (1) In this Act, unless the context otherwise requires—

Interpretation.

“British aircraft” means an aircraft registered in the United Kingdom or in any Territory;

“British hovercraft” means a hovercraft registered in the United Kingdom or which is owned by an individual resident in or a body corporate incorporated under the law of any Territory;

“British marine structure” means a marine structure owned by or leased to an individual resident in or a body corporate incorporated under the law of any part of the United Kingdom or of any Territory;

“British vessel” means a vessel registered in the United Kingdom or in any Territory, or a vessel exempted from such registration under the Merchant Shipping Act 1894(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;

“fisheries zone of the Territory” means any fisheries zone or area within the fishery limits established for the Territory by proclamation of the Governor;

(a) 1894 c.60.

“Governor”, in relation to any Territory, means the officer for the time being administering the Government of that Territory or any person whom the Governor may by order designate to perform such of the Governor’s functions under this Act as may be specified in such order;

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

“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;

“marine structure” means a platform or other man-made structure at sea, other than a pipeline;

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

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

“pest”, “pesticide” and “pesticide residue” are to be construed in accordance with section 16 above;

“plants” means any form of vegetable matter, while it is growing and after it has been harvested, gathered, felled or picked, and in particular, but without prejudice to the generality of this definition, includes—

- (a) agricultural crops;
- (b) trees and bushes grown for purposes other than those of agriculture;
- (c) wild plants; and
- (d) fungi;

“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;

“territorial waters” means any part of the sea within the seaward limits of the territorial waters of the Territory; and

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

(2) Any reference in this Act to the London Convention or the Oslo Convention is a reference to it as it has effect from time to time.

(3) Any power conferred by this Act to make orders or regulations may be exercised—

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);

(ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes of this Act;

(iii) any such provision either unconditionally, or subject to any specified condition,

and includes power to make such incidental or supplemental provision in the orders or regulations as the Governor considers appropriate.

Section 11.

SCHEDULE 2

OFFICERS AND THEIR POWERS

Introductory

1. In this Schedule “officer” means a person authorised to enforce Part II of this Act.

Assistants for officers etc.

2.— (1) An officer may take with him, to assist him in performing his functions—

- (a) any other person; and
- (b) any equipment or materials.

(2) A person whom an officer takes with him to assist him may perform any of the officer’s functions, but only under the officer’s supervision.

Powers in relation to vessels, aircraft etc.

3.— (1) In order to perform functions under Part II of this Act an officer may require any person—

- (a) to give details of any substances or articles on board a vessel, aircraft, hovercraft or marine structure; and
 - (b) to give information concerning any substances or articles lost from a vessel, aircraft, hovercraft or marine structure.
- (2) In order to perform any such functions an officer—
- (a) may require any vessel, aircraft, hovercraft or marine structure to stop; and
 - (b) may require the attendance—
 - (i) of the master, captain or commander of a vessel, aircraft or hovercraft;
 - (ii) of the person in charge of a marine structure; and
 - (iii) of any other person who is on board a vessel, aircraft, hovercraft or marine structure,
 and may require any person on board to assist him in the performance of his functions.
- (4) In order to perform any such functions an officer may detain a vessel, aircraft, hovercraft or marine structure.
- (5) If an officer detains a vessel, aircraft, hovercraft or marine structure, he shall serve on the master, captain, commander or person in charge a notice in writing stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by an officer.

Containers etc.

4. Without prejudice to his powers under any other provision of this Act, in order to perform his functions an officer—
- (a) may open any container;
 - (b) may carry out searches, inspections, measurements and tests;
 - (c) may take samples;
 - (d) may require the production of documents, books and records; and
 - (e) may photograph or copy anything whose production he has power to require under paragraph (d) above.

Evidence of officers' authority

- 5.— (1) An officer shall be furnished with a certificate of his authorisation, and when he proposes to perform any function under Part II of this Act, it shall be his duty, if so requested, to produce that certificate.
- (2) It shall also be his duty, if so requested, to state—
- (a) his name;
 - (b) the function that he proposes to perform; and
 - (c) his grounds for proposing to perform it.

Time of performance of functions

6. An officer must perform his functions under Part II of this Act at a reasonable hour unless it appears to the officer that there are grounds for suspecting that the purpose of their performance may be frustrated if he seeks to perform them at a reasonable hour.

Entry into dwellings

- 7.— (1) An officer may only enter a dwelling for the purpose of performing his functions under Part II of this Act if a justice has issued a warrant authorising him to enter and search that dwelling.
- (2) A justice may only issue such a warrant if on an application made by the officer he is satisfied—
- (a) that the officer has reasonable grounds for believing that there is present in the dwelling anything to which those functions relate, and
 - (b) that—
 - (i) it is not practicable to communicate with any person entitled to grant entry to the dwelling; or
 - (ii) a person entitled to grant entry to the dwelling has unreasonably refused an officer entry; or
 - (iii) entry to the dwelling is unlikely to be granted unless a warrant is produced; or
 - (iv) the purpose of entry may be frustrated or seriously prejudiced unless an officer arriving at the dwelling can secure immediate entry to it.
- (3) In this paragraph “justice” means a magistrate or a justice of the peace.

Power of officer to use reasonable force

8. An officer may use reasonable force, if necessary, in the performance of his functions.

Protection of officers

9. An officer shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his functions under Part II of this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Offences

10. Any person who—

- (a) intentionally obstructs an officer in the performance of any of his functions under Part II of this Act;
- (b) fails without reasonable excuse to comply with a requirement made or direction given by an officer in the performance of his functions under Part II of this Act; or
- (c) in purporting to give information required by an officer for the performance of any of his functions under Part II of this Act—
 - (i) makes a statement which he knows to be false in a material particular;
 - (ii) recklessly makes a statement which is false in a material particular; or
 - (iii) intentionally fails to disclose any material particular,

shall be guilty of an offence.

Section 8.

SCHEDULE 3

LICENCES—RIGHT TO MAKE REPRESENTATIONS ETC

1. If within 28 days of the issue of a licence the person to whom it is issued requests the Governor to give him notice in writing of the reasons for the inclusion of any provision in it, the Governor shall comply with his request within 28 days of receiving it.

2. On issuing a licence to a person the Governor shall notify him of the effect of paragraph 1 above.

3. If the Governor refuses an application for a licence, the Governor shall give the applicant notice in writing of the reasons for the refusal.

4. If the Governor varies or revokes a licence without the holder's consent, the Governor shall give the holder notice in writing of the reasons for the variation or revocation.

5. If within 28 days of receipt of a notice under this Schedule giving the Governor's reasons the person to whom it is given makes written representations to the Governor concerning the matter to which the notice related, the Governor may at his discretion constitute a committee to consider his representations.

6. A notice under this Schedule giving the Governor's reasons shall state the effect of paragraph 5 above.

7. The Governor shall draw up and from time to time revise a panel of persons who are specially qualified in the Governor's opinion to be members of committees constituted under this Schedule, and any such committee constituted by the Governor shall be drawn from members of the Governor's panel.

8. If the Governor constitutes a committee, the Governor shall appoint one of the members of the committee to be its chairman.

9. It shall be the duty of the chairman—

- (a) to serve on the person who made the representations a notice requiring him to state within 14 days of receipt of the notice whether he wishes to make oral representations to the committee; and
- (b) to serve on him, not earlier than the date of the notice under paragraph (a) above, notice of the place, date and time of the meeting of the committee.

10. A notice under paragraph 9(b) above shall not specify a date for the meeting of the committee earlier than 21 days from the date of the notice, unless the person who made the representations has agreed to an earlier meeting.

11. If he expresses a wish to make oral representations, the committee shall afford him an opportunity of doing so, either in person or by any person authorised by him in that behalf.

12. The committee shall consider—

- (a) the reasons given by the Governor under this Schedule; and
- (b) any representations made under this Schedule,

and shall make a report to the Governor after the close of their consideration, giving their findings of fact and their recommendations, and the Governor shall reconsider the decision of the Governor to which the representations relate in the light of the report.

13. The Governor shall notify the person who made the representations of the result of the Governor's reconsideration and the reasons for it and shall send him a copy of the committee's report.

14. Subject to paragraph 15 below, the Governor may pay to a person who makes representations under this Schedule such sum as the Governor considers appropriate in respect of costs or expenses incurred by that person in connection with the making of the representations and of any hearing relating to them by a committee.

15. No payment shall be made in a case where the result of the reconsideration is that the Governor confirms the original decision without modification.

16. The Governor may make arrangements for securing that such of the Governor's officers as the Governor considers are required are available to assist a committee constituted by the Governor under this Schedule.

17. The Governor may pay—

- (a) such fees and allowances for members of such committees;
- (b) such other expenses of such committees,

as the Governor may determine.

SCHEDULE 4

Section 14.

PARTICULARS TO BE CONTAINED IN REGISTERS

PART I

LICENCES FOR DEPOSIT OR INCINERATION OR ASSOCIATED OPERATIONS

1. The name of the holder of the licence.
2. The period of the licence.
3. The name, where known, of the producer of the substances or articles.
4. Their description and quantity.
5. Their country of origin, where known.
6. The site at which it was intended to deposit or incinerate them.
7. The place from which it was intended that they should be taken to that site.
8. The nature of any container or packaging in which it was intended that they should be when deposited.
9. The results of any toxicity tests carried out for the purpose of determining whether the licence should be issued or the provisions to be included in it.

PART II

LICENCES FOR SCUTTLING OR ASSOCIATED OPERATIONS

10. The name of the holder of the licence.

11. The period of the licence.
12. The name of the owner of the vessel.
13. A description of the vessel.
14. The site at which it was intended to scuttle it.
15. The place from which it was intended that it should be taken to that site.

SCHEDULE 2

Article 2

TERRITORIES TO WHICH THIS ORDER APPLIES

Bermuda
British Virgin Islands
Cayman Islands
Montserrat
St Helena
St Helena Dependencies
Turks and Caicos Islands

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends, to the territories specified in Schedule 2 thereto, the provisions of Parts II and IV of the Food and Environment Protection Act 1985, and related Schedules, subject to exceptions, adaptations and modifications.

The purposes of the Act were, so far as material, to replace the Dumping at Sea Act 1974 (c.20) with fresh provision for controlling the deposit of substances and articles in the sea, to make provision for the control of the deposit of substances and articles under the sea-bed, and for connected purposes.

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