

1990 No. 2595

MARINE POLLUTION

**The Merchant Shipping
(Prevention and Control of Pollution) Order 1990**

Made - - - - - *19th December 1990*

Coming into force *1st January 1991*

At the Court at Buckingham Palace, the 19th day of December 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas by virtue of section 20(1)(a) and (d) and (2) of the Merchant Shipping Act 1979(a) ("the Act of 1979") Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to—

- (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973 ("the Convention")(b), and
- (b) any international agreement, not mentioned in paragraphs (a) to (c) of the said section 20(1), which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships including an agreement which provides for modification of, *inter alia*, the Convention:

And whereas the said section 20(2) provides that the powers conferred by section 20(1) to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force although the agreement has not come into force:

And whereas the Merchant Shipping (Prevention and Control of Pollution) Order 1987(c) enables effect to be given to Annex II and Protocol 1 to the Convention, as amended:

And whereas the Marine Environment Protection Committee of the International Maritime Organization on 17th March 1989 by Resolutions MEPC 32(27), 33(27) and 34(27) adopted, in accordance with Article 16(2)(d) of the Convention, amendments relating to Annex II and Protocol 1 to the Convention:

And whereas the said amendments came into force internationally on 13th October 1990:

And whereas Annex III to the Convention, which relates to pollution by harmful substances in packaged form was ratified by the United Kingdom on 27th May 1986:

And whereas the said Annex III has not yet come into force internationally but it is desired to give effect to the provisions of the said Annex III from 1st January 1991:

And whereas a draft of this Order has been approved by a resolution of each House of Parliament:

(a) 1979 c.39.

(b) Cmnd. 5748.

(c) S.I. 1987/470.

Now, therefore, Her Majesty, in exercise of the powers conferred by section 20(1)(a) and (d), (2), (3), (4) and (5) of the Act of 1979 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 Merchant Shipping (Prevention and Control of Pollution) Order 1990 and shall come into force on 1st January 1991.

2. The Merchant Shipping (Prevention and Control of Pollution) Order 1987 is hereby amended by adding to article 3(1)(a), after "as amended" the words "and as further amended by the Marine Environment Protection Committee of the International Maritime Organization on 17th March 1989".

3.—(1) The Secretary of State may make regulations for the prevention of pollution by harmful substances carried by sea in packaged form for the purpose of giving effect to the provisions of Annex III to the Convention.

(2) Such regulations may in particular include provisions—

- (a) with respect to the approval of documents and carrying out of surveys and inspections, and for the issue, duration and recognition of certificates and the payment in connection with such a survey, inspection or certificate of fees of amounts determined with the approval of the Treasury;
- (b) with respect to the application of the regulations to the Crown and the extra-territorial operation of the regulations;
- (c) for the extension of any provision of this Order or of the regulations, with or without modification, to any of the Channel Islands, the Isle of Man, any colony and any country or place outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of the government of the United Kingdom;
- (d) that specified contraventions of the regulations shall be offences punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
- (e) that specified contraventions shall be offences punishable only on summary conviction by a maximum fine not exceeding level 5 on the standard scale or such less amount as is prescribed by the regulations;
- (f) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship for applying section 692 of the Merchant Shipping Act 1894(a) (which relates to the detention of a ship) with such modifications, if any, as are prescribed by the regulations.

(3) Such regulations may—

- (a) make different provisions for different circumstances;
- (b) provide for exemptions from any provisions of the regulations;
- (c) provide for the delegation of functions exercisable by virtue of the regulations; and
- (d) include such incidental, supplemental and transitional provisions as appear to the Secretary of State to be expedient for the purposes of the regulations.

(4) The Statutory Instruments Act 1946(b) shall apply to regulations made under this Order, and shall so apply as if such regulations were a statutory instrument.

G. I. de Deney
Clerk of the Privy Council

(a) 1894 c.60.

(b) 1946 c.36.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order enables effect to be given to

- (i) amendments agreed by the Marine Environment Protection Committee of the International Maritime Organization on 17th March 1989 relating to Annex II to the International Convention for the Prevention of Pollution from Ships 1973 ("MARPOL");
- (ii) Annex III to MARPOL, which was ratified by the United Kingdom on 27th May 1986 but which is not in force internationally.

Annex II to MARPOL relates to pollution by noxious liquid substances in bulk. Annex III contains regulations for the prevention of pollution by harmful substances carried by sea in packaged forms, and in particular requires Governments to issue, or caused to be issued, detailed requirements on packaging, marking and labelling, documentation, stowage, quantity limitations, exceptions and notification, for preventing or minimizing pollution of the marine environment by harmful substances.

The Order amends the Merchant Shipping (Prevention and Control of Pollution) Order 1987, which enables regulations to be made giving effect to Annex II. It also empowers the Secretary of State to make regulations for the purpose of giving effect to the provisions of Annex III. In particular, such regulations may include provisions with respect to the carrying out of surveys, the issue of certificates, the application of the regulations to the Crown, the extension of the Order or regulations to dependent territories, the imposition of penalties and the detention of ships.

Copies of the Convention, the Annexes, and amendments are obtainable from the International Maritime Organization, 4 Albert Embankment, London SE1 7SR.