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SEA POLLUTION (AMENDMENT) ACT, 1999

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Acts Referred to

Continental Shelf Act, 1968	1968, No. 14
Energy (Miscellaneous Provisions) Act, 1995	1995, No. 35
Fishery Harbour Centres Act, 1968	1968, No. 18
Foreshore Act, 1933	1933, No. 12
Harbours Act, 1946	1946, No. 9
Harbours Act, 1996	1996, No. 11
Local Government Act, 1941	1941, No. 23
Maritime Jurisdiction Acts, 1959 to 1988	
Mercantile Marine Act, 1955	1955, No. 29
Oil Pollution of the Sea (Civil Liability and Compensation) (Amendment) Act, 1998	1998, No. 13
Sea Pollution Act, 1991	1991, No. 27
Sea Pollution Acts, 1991 and 1995	
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SEA POLLUTION (AMENDMENT) ACT, 1999

AN ACT TO GIVE EFFECT TO THE INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 1990, DONE AT LONDON ON THE 30TH DAY OF NOVEMBER 1990, TO AMEND THE SEA POLLUTION ACT, 1991, AND TO PROVIDE FOR RELATED MATTERS. [30th June, 1999]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

“authorised officer” means a person appointed by the Minister under *section 4*, or *section 11* of the Energy (Miscellaneous Provisions) Act, 1995;

“the Convention” means the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990, done at London on the 30th day of November 1990;

“designated area” means an area for the time being designated under *section 2* of the Continental Shelf Act, 1968;

“functions” includes powers and duties and references to the performance of functions include references to the exercise of powers and the carrying out of duties;

“harbour authority” means—

- (a) in the case of a harbour to which the Harbours Act, 1946, applies, a harbour authority within the meaning of that Act;
- (b) in the case of a harbour under the control of a company established pursuant to *section 7* of the Harbours Act, 1996, the company concerned;
- (c) in the case of a fishery harbour centre to which the Fishery Harbour Centres Act, 1968, applies, the Minister;
- (d) in the case of a harbour under the control of a local authority, the local authority concerned; or

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of this Act unless it is indicated that a reference to some other enactment is intended. S.1

(4) A reference in this Act to a subsection or paragraph is a reference to the subsection or paragraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended.

(5) A reference in this Act to an enactment shall be construed as a reference to that enactment as amended, adapted or extended, whether before or after the commencement of this section, by or under any subsequent enactment.

2.—(1) A harbour authority shall, as soon as may be after the commencement of this section, prepare and submit to the Minister a plan for the prevention and minimisation of damage arising out of an oil pollution incident occurring in a harbour under its control. Preparation and submission of plans to Minister.

(2) The operator of an offshore unit or oil handling facility shall, as soon as may be after the commencement of this section, prepare and submit to the Minister a plan for the prevention and minimisation of damage arising out of an oil pollution incident occurring on the offshore unit or oil handling facility concerned.

(3) The Minister may require a local authority, within such period as is specified by the Minister, to prepare and submit to him or her a plan for the prevention and minimisation of damage, arising out of an oil pollution incident, to any area of seashore that is in whole or in part within its functional area or contiguous thereto.

(4) The Minister may approve a plan to which this section applies.

(5) A plan to which this section applies shall include such provisions and provide for the adoption of such measures and procedures by the harbour authority, operator or local authority concerned as the Minister may direct.

(6) A person who fails to comply with a requirement or direction of a Minister under this section shall be guilty of an offence.

3.—(1) Each harbour authority shall, in relation to the harbour concerned, have in place an oil pollution emergency plan. Oil pollution emergency plans.

(2) Each operator of an offshore unit or oil handling facility shall, in relation to the offshore unit or oil handling facility concerned, have in place an oil pollution emergency plan.

(3) Each local authority of which a requirement is made under *subsection (3) of section 2* shall, in relation to the area of seashore to which the requirement relates, have in place an oil pollution emergency plan.

(4) A harbour authority, local authority, or operator of an offshore unit or oil handling facility who contravenes this section shall be guilty of an offence.

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5.—Section 25 of the Principal Act is hereby amended by—

Powers of harbour-
masters.

(a) the insertion in subsection (1) of the following paragraph:

“(aa) take samples of oil, oily mixtures, noxious liquid substances, harmful substances, sewage or garbage from the ship concerned;”,

and

(b) the insertion of the following subsection after subsection (1):

“(1A) A harbour-master may enter any oil handling facility within the harbour in respect of which he is harbour-master and there make inspections and carry out such tests as he thinks fit—

(a) in relation to the carrying on of any activities in such facility, including the monitoring and assessment of the effects on the marine environment of such activities, or

(b) for the purposes of monitoring and assessing the effects on the marine environment of any oil pollution incident.”.

6.—(1) The Minister may—

Giving of directions
by Minister.

(a) give a direction in writing to a harbour authority requiring it to make such modifications or alterations to an oil pollution emergency plan approved by him or her in respect of a harbour under its control as he or she deems appropriate, or

(b) in relation to a harbour, give a direction (in writing or otherwise) to the harbour authority concerned to do or refrain from doing anything, the doing or refraining from doing of which is, in the opinion of the Minister, necessary or expedient for the purposes of responding to an oil pollution incident in that harbour.

(2) The Minister may—

(a) give a direction in writing to the operator of an offshore unit or oil handling facility requiring the operator concerned to make such modifications or alterations to an oil pollution emergency plan approved by the Minister in respect of an offshore unit or oil handling facility, as the case may be, under his or her control, as he or she deems appropriate, or

(b) in relation to an offshore unit or oil handling facility, give a direction (in writing or otherwise) to the operator concerned to do or refrain from doing anything, the doing or refraining from doing of which is, in the opinion of the Minister, necessary or expedient for the purposes of responding to an oil pollution incident in or on the offshore unit or oil handling facility concerned.

(3) The Minister may—

(a) give a direction in writing to a local authority requiring it to make such modifications or alterations to an oil pollution emergency plan approved by him or her in respect of an area of seashore within or contiguous to the functional area of the local authority concerned, or

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(4) A report under this section shall comply with such S.7 requirements (if any) as the Minister may prescribe.

(5) A person who contravenes this section or a requirement prescribed under subsection (4) shall be guilty of an offence.

(6) In this section ‘pollutant’ means oil, an oily mixture, noxious liquid substance, harmful substance, sewage or garbage.”,

and

(b) the insertion of the following sections after section 13:

“13A.—(1) Whenever there is an incident whether on board or outside an Irish ship—

(a) resulting in a discharge, outside the State or a prescribed area, of oil from a ship, or

(b) giving rise to circumstances from which it is reasonable to infer that there is likely to be a discharge, outside the State or a prescribed area, of oil from a ship,

the master of any Irish ship involved in such incident or of any Irish ship from which such incident was observed, shall forthwith report the matter to the maritime administration, in the state closest to the place where the incident occurred, or to the person performing, in relation to the port closest to the said place, functions the same as or similar to the functions performed by a harbour-master in relation to a harbour, as may be appropriate.

(2) Where the presence of oil in the sea is observed from an Irish ship outside the State or a prescribed area the master of such ship shall forthwith report the matter to the maritime administration, in the state closest to the place where such presence was observed, or to the person performing, in relation to the port closest to the said place, functions the same as or similar to the functions performed by a harbour-master in relation to a harbour, as may be appropriate.

(3) A person who contravenes this section shall be guilty of an offence.

13B.—(1) Whenever an incident occurs on an offshore unit or an oil handling facility resulting in a discharge of oil, in the State or a designated area, or giving rise to circumstances from which it is reasonable to infer that there is likely to be a discharge of oil in the State or a designated area the person for the time being in charge of the offshore unit or oil handling facility concerned shall forthwith report the matter to—

(a) the Minister, or

(b) in the case of an oil handling facility in a harbour, to the harbour-master, or person performing, for the time being, the functions of harbour-master in relation to that harbour.

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prevent and minimise damage in the State resulting from a discharge of oil from a ship, offshore unit or oil handling facility. S.8

(3) The Minister may, by direction in writing, require such persons as he or she considers appropriate to comply with such provisions of the plan as are specified in the direction.

(4) The plan shall be published in such manner as the Minister considers appropriate.

(5) A person who fails to comply with a direction of the Minister under this section shall be guilty of an offence.

9.—The Minister may, alone or jointly with a foreign maritime administration, arrange for the provision, on such terms as he or she considers appropriate, whether by purchasing, leasing, hiring or otherwise, of such equipment and materials as he or she considers necessary or expedient for the carrying out of operations for the prevention or minimising of damage in the State resulting from discharges of oil from ships, offshore units or oil handling facilities, or for the training of persons in the carrying out of such operations.

Acquisition of equipment and materials by Minister.

10.—Where the maritime administration of a party to the Convention provides, pursuant to a request of the Minister, assistance in preventing or minimising damage in the State resulting from a discharge of oil from a ship, offshore unit or oil handling facility, the Minister may, on such terms and conditions as he or she considers appropriate, reimburse such foreign maritime administration for the expenses incurred by it in so providing assistance.

Provision of assistance by foreign maritime administration.

11.—(1) The Minister may, pursuant to a request from a party to the Convention or the maritime administration thereof, provide assistance in preventing or minimising damage outside the State resulting from a discharge of oil from a ship, offshore unit or oil handling facility, including the provision of equipment, materials or technical advice, or the carrying out of operations to prevent or minimise such damage.

Provision of assistance by Minister outside State.

(2) Assistance under *subsection (1)* shall be provided on such terms as the Minister considers appropriate.

12.—(1) The master of a ship at anchor at a place in the State other than a harbour shall immediately notify the Minister of the fact and of the place at which it is at anchor.

Ships anchored outside harbour.

(2) A person shall not transfer or cause to be transferred ship's stores, cargo or oil to or from a ship in a place in the State (not being a harbour) other than in accordance with a permit granted by the Minister under *subsection (3)*.

(3) The Minister may, upon an application being made by the owner, charterer, hirer or master of a ship, grant a permit to the applicant allowing the transfer to or from the ship concerned of ship's stores, cargo or oil outside a harbour.

(4) An application for a permit under *subsection (3)* shall comply with such requirements (if any) as the Minister may prescribe.

(5) A permit under *subsection (3)* shall be in such form as the Minister may prescribe.

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fitting or equipment thereon) does not comply with a certificate referred to in subsection (1) or is so defective that the ship is not fit to put to sea without presenting a serious threat to living marine resources, detain a ship, or take a ship to such place in the State as he considers appropriate, and there detain it until such time as any directions given by him under this section in relation to the ship have been complied with.”, S.14

- (b) the substitution in section 24 of the following subsection for subsection (1):

“(1) Whenever an inspector or a harbour-master has reasonable cause to believe that a ship has caused or may cause pollution and the ship is in the State, he may stop and detain the ship, or take it to such place in the State as he considers appropriate and there detain it.”,

- (c) the substitution of the following section for section 39:

“39.—(1) Where an inspector or harbour-master has, in the exercise of the powers conferred on him by section 22(2) or 24 detained a ship and the persons on board the ship at a port or other place in the State, any inspector, or the harbour-master concerned, who suspects that a person on board the ship has committed an offence under this Act shall (unless he is proceeding under section 39A), as soon as may be, apply to a judge of the District Court for an order authorising the continued detention of the ship and those persons, and the said judge may grant an order authorising such detention for a period of 48 hours if he is satisfied that the applicant inspector or harbour-master has such a suspicion as aforementioned.

- (2) Upon the expiration of the period of 48 hours—

- (a) the ship shall be released unless an order providing for its further detention is made under section 39A before the expiration of the said period of 48 hours, and
- (b) each person on board the ship shall be released unless an order providing for his further detention is made under the said section before the expiration of the said period.”,

and

- (d) the insertion of the following section after section 39:

“39A.—Where an inspector or harbour-master has, in the exercise of the powers conferred on him by section 22(2) or 24, detained a ship and the persons on board the ship at a port or other place in the State, any inspector or the harbour-master concerned shall, as soon as may be, bring the master of the ship and any other persons on board the ship, against whom proceedings for an offence under this Act have been or are about to be instituted, before a judge of the District Court and thereupon the said judge shall, if he is satisfied that such proceedings have been or are about to be instituted against the master and those other persons or any one or more of them, by order directed to an inspector or the harbour-master concerned, require such inspector or

