STATUTORY INSTRUMENTS

1981 No. 224

MERCHANT SHIPPING

The Merchant Shipping (Oil Pollution) Act 1971 (Guernsey) Order 1981

Made - - - -	*18th February* 1981
Laid before Parliament	*26th February* 1981
Coming into Operation	*20th March* 1981

At the Court at Buckingham Palace, the 18th day of February 1981

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 18(1) of the Merchant Shipping (Oil Pollution) Act 1971**(a)** and section 738(1) of the Merchant Shipping Act 1894**(b)**, 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 (Oil Pollution) Act 1971 (Guernsey) Order 1981 and shall come into operation on 20th March 1981.

2. In this Order and the Schedule hereto, the expression "Guernsey" means the Bailiwick of Guernsey and the territorial waters adjacent thereto and the expression "Act of 1979" means the Merchant Shipping Act 1979**(c)**.

3. The provisions of the Merchant Shipping (Oil Pollution) Act 1971, excluding any amendments to that Act made by the provisions of the Act of 1979 except the amendments made by sections 38 and 43 of, and Part III of Schedule 6 to, that Act, shall extend to Guernsey subject to the exceptions, modifications and adaptations specified in Part I of the Schedule to this Order and, as respects the amendments made by section 38, to the provisions in Part II of the Schedule relating to the coming into force of those amendments.

4. The Merchant Shipping (Oil Pollution) Act 1971 (Guernsey) Order 1975**(d)** is hereby revoked.

N. E. Leigh,
Clerk of the Privy Council.

(a) 1971 c. 59; the amendments to the Act relevant to this Order are the insertion of section 8A by section 9 of the Merchant Shipping Act 1974 (c. 43), the amendments to section 4 made by section 38(1) of the Merchant Shipping Act 1979 (c. 39), the insertion of section 5(2A) by section 38(2) of that Act, the amendments to sections 10(2), 11(1) and 14(2) by section 38(3) of that Act, the amendment to section 10(7) by section 43 of, and Part III of Schedule 6 to, that Act and the reference to section 18(1) in the declaration in section 38(5) of that Act.
(b) 1894 c. 60. **(c)** 1979 c. 39. **(d)** S.I. 1975/2185.

Article 3

SCHEDULE

PART I

EXCEPTIONS, MODIFICATIONS AND ADAPTATIONS IN THE EXTENSION OF THE MERCHANT SHIPPING (OIL POLLUTION) ACT 1971 TO GUERNSEY

1. Unless the context otherwise requires, any reference to the Merchant Shipping (Oil Pollution) Act 1971 or to any other enactment shall be to that enactment as it has effect in Guernsey.

2. Unless the context otherwise requires, for any reference to the United Kingdom there shall be substituted a reference to Guernsey.

3. Section 1(5) shall be omitted.

4. In section 4(2) for paragraph (*d*) there shall be substituted the following paragraph:—

"(*d*) if the tonnage of the ship cannot be ascertained in accordance with the preceding paragraphs, the court may accept as evidence a certificate given at the court's request by the Chief Ship Surveyor of the Department of Trade certifying what, on the evidence specified in the request, would in his opinion, be the tonnage of the ship if ascertained in accordance with those paragraphs and the tonnage stated in the certificate shall be taken to be the tonnage of the ship.".

5. Subject to paragraph 22 below, in section 4(4) the words "made by statutory instrument" shall be omitted.

6. Subject to paragraph 22 below, in section 4(5) the words "(or in Scotland consigned in court)" shall be omitted.

7. In section 5(6) for the words "of any country outside the United Kingdom" there shall be substituted the words "outside Guernsey".

8. In section 6—

(*a*) in paragraph (*b*) of subsection (1) the words "(or, in Scotland, expenses)" shall be omitted;

(*b*) subsection (2) shall be omitted.

9. In section 10(3) at the end of paragraph (*b*) there shall be inserted the words "or if that country is Jersey, by the Secretary of State".

10. In section 10(5) for the words from "by the master to" to the end of the subsection, there shall be substituted the words "the Chief Revenue Officer as defined in the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law 1972 registered on the thirtieth day of January nineteen hundred and seventy-three".

11. Section 10(9) shall be omitted.

12. Section 11(6) shall be omitted.

13. For section 12(5) there shall be substituted the following provision:—

"(5) The Third Parties (Rights against Insurers) (Guernsey) Law, 1936 shall not apply in relation to any contract of insurance to which such a certificate as is mentioned in section 10 of this Act relates.".

14.—(1) For section 13(1) there shall be substituted the following provision:—

"(1) Paragraph (*d*) of section 1(1) of the Administration of Justice Act 1956**(a)** as applied to Guernsey by the Admiralty Jurisdiction (Guernsey) Order 1966**(b)** shall be construed as extending to any claim in respect of a liability incurred under this Act.",

(a) 1956 c. 46. **(b)** S.I. 1966/1186.

(2) For section 13(3) there shall be substituted the following provision:—

"(3) Part II of the Judgments (Reciprocal Enforcement) (Guernsey) Law 1957 registered on the sixth day of April, nineteen hundred and fifty-seven shall apply, whether or not it would so apply apart from this section, to any judgment given by a court in a Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 1 of the Act; and in its application to such a judgment that Part shall have effect with the omission of subsections (2) and (3) of section 6 of that Law.".

15. In section 14(3) the words "or in Scotland the execution of diligence" shall be omitted.

16. Section 18 shall be omitted.

17. In section 20(1) for the definition of "the court" there shall be substituted the following definition:—

"(1) "the court" means—

(i) as respects the Islands of Guernsey, Herm and Jethou, the Royal Court sitting as an Ordinary Court;

(ii) as respects the Island of Alderney, the Court of Alderney;

(iii) as respects the Island of Sark, the Court of the Seneschal of Sark:".

18. In section 21(1) the words following "Act 1971" shall be omitted.

19. For section 21(2) there shall be substituted the following provision:—

"(2) This Act shall at any time be construed as one with such provisions of the Merchant Shipping Acts 1894 to 1977 as at that time have effect in Guernsey.".

20. Section 21(3) and (4) shall be omitted.

PART II

Provisions as to the Coming into Force of Amendments

21. The amendments to section 4(1)(*b*) made by section 38(1)(*a*) of the Act of 1979 shall come into force on the day when section 38(1)(*a*) is brought into force in the United Kingdom by an order made under section 52(2) of the Act of 1979.

22. Subsections (3) to (5) of section 4 shall cease to have effect on the day when section 38(1)(*b*) of the Act of 1979 (which repeals those subsections) is brought into force in the United Kingdom by an order made under section 52(2) of the Act of 1979; and on such a day paragraphs 5 and 6 of Part I of this Schedule shall also cease to have effect.

23. Section 5(2A) shall come into force on the day when section 38(2) of the Act of 1979 (by which section 5(2A) is inserted) is brought into force in the United Kingdom by an order made under section 52(2) of the Act of 1979.

24. The amendments to sections 10(2), 11(1) and 14(2) made by section 38(3) of the Act of 1979 shall come into force on the day when section 38(3) is brought into force in the United Kingdom by an order made under section 52(2) of the Act of 1979.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order revokes and replaces the Merchant Shipping (Oil Pollution) Act 1971 (Guernsey) Order 1975 by which the Merchant Shipping (Oil Pollution) Act 1971 was extended to the Bailiwick of Guernsey. This Order extends that Act, as amended by section 9 of the Merchant Shipping Act 1974 and section 38 of the Merchant Shipping Act 1979, to the Bailiwick subject to the exceptions, modifications and adaptations specified in Part I of the Schedule to the Order. Part II of the Schedule provides for the coming into force of the amendments to the Act of 1971 made by section 38 of the Act of 1979. Certain other amendments to the Act of 1971 which are made by the Act of 1979 will come into force in the Bailiwick under the Merchant Shipping Act 1979 (Guernsey) Order 1980 (S.I. 1980/569), when the equivalent amendments are brought into force in the United Kingdom.

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