STATUTORY INSTRUMENTS

1983 No. 1519

MERCHANT SHIPPING

The Merchant Shipping (Oil Pollution) (Anguilla) Order 1983

Made - - - -	19*th October* 1983
Laid before Parliament	27*th October* 1983
Coming into Operation	17*th November* 1983

At the Court at Buckingham Palace, the 19th day of October 1983
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**) , section 20(1) of the Merchant Shipping Act 1974 (**b**) and section 38(5) of the Merchant Shipping Act 1979 (**c**) , 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) (Anguilla) Order 1983 and shall come into operation on 17th November 1983.

2. The provisions of the Merchant Shipping (Oil Pollution) Act 1971 (except sections 17 and 18 thereof), excluding any amendments to those provisions of that Act except the amendments made by section 38(1), (2) and (3) of the Merchant Shipping Act 1979, shall extend to Anguilla subject to the exemptions, modifications and adaptations specified in Schedule 1 hereto.

3. The provisions of Part I and sections 22, 23 and 24 of, and Schedule 1 to, the Merchant Shipping Act 1974, excluding any amendments to those provisions of that Act except the amendments made by section 38(4) of the Merchant Shipping Act 1979, shall extend to Anguilla subject to the exceptions, modifications and adaptations specified in Schedule 2 hereto.

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

(**a**) 1971 c. 59; the amendments to the Act relevant to this Order are 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 and the amendments to sections 10(2), 11(1) and 14(2) by section 38(3) of that Act.

(**b**) 1974 c. 43; the amendments to the Act relevant to this Order are the amendments to sections 1(6) and (7), 2(7)(*a*), 4, 5 and 6(5)(*a*) and Schedule 1 by section 38(4) of the Merchant Shipping Act 1979.

(**c**) 1979 c. 39.

SCHEDULE 1 Article 2

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

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

2. Save as is provided otherwise hereinafter, any reference to any enactment of the United Kingdom shall be construed as a reference to that enactment as applying or extended to Anguilla.

3. For any reference to the Secretary of State there shall be substituted a reference to the Governor.

4. For section 1(5) there shall be substituted:

"(5) The Law Reform (Miscellaneous Provisions) Ordinance **(a)** shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault."

5. In section 4(2)*(d)* for the words "the Chief Ship Surveyor of the Department of Trade and Industry" there shall be substituted the words "a surveyor of ships appointed by the Governor".

6. For section 5(2A) there shall be substituted:

"(2A) A payment into court of the amount of a limit determined in pursuance of this section shall be made in dollars and —

(a) for the purpose of converting such an amount from special drawing rights into dollars the Permanent Secretary for Finance may specify in dollars the respective amounts which are to be taken as equivalent for a particular day to the sums expressed in special drawing rights in section 4 of this Act;

(b) a certificate given by or on behalf of the Permanent Secretary for Finance in pursuance of paragraph *(a)* above shall be conclusive evidence of those matters for the purposes of this Act;

(c) 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."

7. For section 5(4) there shall be substituted:

"(4) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends by the owner or the person referred to in section 12 of this Act as "the insurer" the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been."

8. In section 10(6) for "£35,000" there shall be substituted "350,000 dollars".

9. In section 10(7) for "£400" there shall be substituted "4,000 dollars".

10. In section 11(4) for "£200" there shall be substituted "2,000 dollars".

11. In section 11(5) for the words "the Registrar General of Ships and Seamen" there shall be substituted the words "the Registrar of British ships".

12. For section 13(3) there shall be substituted:

"(3) The Reciprocal Enforcement of Judgements Act **(b)** shall apply, whether or not it would so apply apart from this section, to any judgement 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 this Act."

(a) Laws of Saint Christopher, Nevis and Anguilla Revised Ed. 1961, Cap. 43.
(b) Laws of Saint Christopher, Nevis and Anguilla Revised Ed. 1961, Cap. 67.

13. In section 19(2) after the words "if Her Majesty by Order in Council" there shall be inserted the words "made under this subsection as it applies in the United Kingdom".

14. In section 20(1) for the words "the High Court in England and Wales, the Court of Session or the High Court in Northern Ireland or a judge thereof" there shall be substituted the words "the Eastern Caribbean Supreme Court".

15. At the end of section 20(1) there shall be added: ""dollars" means East Caribbean dollars".

16. In the provisions listed in column 1 the deletions listed in column 2 shall be made.

Column 1	Column 2
Section 6 ...	In subsection (1)*(b)* the words "(or, in Scotland, expenses)"; Subsection (2).
Section 7 ...	The whole section.
Section 10 ...	In subsection (3)*(c)* the words "a certificate issued by the Secretary of State or"; In subsection (5) the words "or of the Department of Trade and Industry and, if the ship is registered in the United Kingdom, to any proper officer within the meaning of section 97(1) of the Merchant Shipping Act 1970"; Subsection (9).
Section 11 ...	In subsection (1) The words "or any country which is not a Convention country"; Subsection (6).
Section 12 ...	Subsection (5).
Section 13 ...	In subsection (1) the words "and paragraph 1(1)*(d)* of Schedule 1 to that Act" and the words "and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim".
Section 14 ...	In subsection (3) the words "or in Scotland the execution of diligence,".
Section 21 ...	In subsection (3) the words "made by statutory instrument"; Subsection (4).

Article 3

SCHEDULE 2

EXCEPTIONS, MODIFICATIONS AND ADAPTATIONS IN THE EXTENSION OF THE MERCHANT SHIPPING ACT 1974 TO ANGUILLA

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

2. Save as is provided otherwise hereinafter, any reference to any enactment of the United Kingdom shall be construed as a reference to that enactment as applying or extended to Anguilla.

3. For any reference to the Secretary of State there shall be substituted a reference to the Governor.

4. In section 1(2) after the words "If Her Majesty by Order in Council" there shall be inserted the words "made under this subsection as it applies in the United Kingdom".

5. At the end of section 1(3) there shall be added:

""dollars" means East Caribbean dollars".

6. In section 2(8)*(b)* and section 3(5) and (6) for "£400" there shall be substituted "4,000 dollars".

7. In section 2(9) for the words "its subsidiaries as defined by section 154 of the Companies Act 1948 (or for companies in Northern Ireland section 148 of the Companies Act (Northern Ireland) 1960)" there shall be substituted the words "any subsidiary or commonly controlled entity".

8. For section 4(13) there shall be substituted:

"(13) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgement as is mentioned in subsection (12) above shall be steps to obtain payment in dollars; and

(a) for the purposes of converting such an amount from special drawing rights into dollars the Permanent Secretary for Finance may specify in dollars the respective amounts which are to be taken as equivalent for a particular day to the sums expressed in special drawing rights in section 5 of this Act;

(b) a certificate given by or on behalf of the Permanent Secretary for Finance in pursuance of paragraph *(a)* above shall be conclusive evidence of those matters for the purposes of this Act;

(c) 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."

9. For section 5(8) there shall be subsituted:

"(8) For the purpose of converting into dollars the amount in special drawing rights adjudged to be payable by the Fund by way of indemnity in such proceedings as are mentioned in subsection (4) of this section, paragraphs *(a)* to *(c)* of subsection (13) of section 4 of this Act shall have effect as if for the reference in the said paragraph *(a)* to the amount there mentioned there was substituted a reference to the amount adjudged as aforesaid."

10. For section 6(4) there shall be substituted:

"(4) Subject to subsection (5) below, the Reciprocal Enforcement of Judgements Act(**a**) shall apply, whether or not it would so apply apart from this subsection, to any judgements given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 4 or 5 of this Act."

11. In section 6(5) for the words "Part I of the Act of 1933" there shall be substituted the words "the Reciprocal Enforcement of Judgements Act".

12. At the end of section 24(3) there shall be added:

"Such an order may provide that this Act shall have effect without the amendments made by section 38(4) of the Merchant Shipping Act 1979."

13. In the provisions listed in column 1 the deletions listed in column 2 shall be made.

(**a**) Laws of Saint Christopher, Nevis and Anguilla Revised Ed. 1961, Cap. 67.

Column 1	Column 2
Section 2 ...	In subsection (8) the words "contained in a statutory instrument" and the words "and *(c)* shall be subject to annulment in pursuance of a resolution of either House of Parliament"; Subsection (10).
Section 4 ...	In subsection (2) the words "*(a)* the headquarters of the Fund is for the time being in the United Kingdom, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country, or *(b)*"; Subsection (4).
Section 5 ...	In subsection (2) the words "either — *(a)*" and "or *(b)* the headquarters of the Fund is for the time being in the United Kingdom"; In subsection (6) the words ", and *(c)* shall be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament".
Section 6 ...	In subsection (1) the words "and paragraph 1(1)*(d)* of Schedule 1 to that Act" and the words "and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim".
Section 9 ...	The whole section.
Section 23 ...	Subsection (3).
Section 24 ...	In subsection (2) the words "by order made by statutory instrument"; Subsections (4) and (5).

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order extends to Anguilla the provisions of the Merchant Shipping (Oil Pollution) Act 1971 as amended by section 38(1), (2) and (3) of the Merchant Shipping Act 1979, with the necessary adaptations, enabling effect to be given to the International Convention on Civil Liability for Oil Pollution Damage, 1969 (Cmnd. 6183) and the 1976 Protocol thereto (Cmnd. 8238). The Order also extends the provisions of Parts I and V of, and of Schedule I to, the Merchant Shipping Act 1974 as amended by section 38(4) of the 1979 Act, with the necessary adaptations, enabling effect to be given to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (Cmnd. 7383) and the 1976 Protocol thereto (Cmnd. 7029). The 1969 Convention provides uniform rules and procedures for determining questions of liability and for awarding compensation when damage is caused by pollution resulting from the escape or discharge of oil from ships. The 1971 Convention sets up an international fund to provide a supplementary system for compensation and indemnification for such damage. The 1976 Protocols substitute special drawing rights for gold francs as the unit of account to be used in connection with each Convention.

The provisions of the 1971 and 1974 Acts will come into force on a date to be appointed by the Governor.

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