STATUTORY INSTRUMENTS

1981 No. 219

MERCHANT SHIPPING

The Merchant Shipping (Oil Pollution) (Gibraltar) (Amendment) Order 1981

Made - - - -	18*th February* 1981
Laid before Parliament	26*th February* 1981
Coming into Operation	20*th 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)**, section 20(1) of the Merchant Shipping Act 1974**(b)**, section 38(5) of the Merchant Shipping Act 1979**(c)** and section 738(1) of the Merchant Shipping Act 1894**(d)**, and 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 (Oil Pollution) (Gibraltar) (Amendment) Order 1981 and shall come into operation on 20th March 1981.

2. The Merchant Shipping (Oil Pollution) (Gibraltar) Order 1976**(e)** shall have effect subject to the amendments specified in the Schedule hereto.

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

(a) 1971 c. 59. **(b)** 1974 c. 43. **(c)** 1979 c. 39. **(d)** 1894 c. 60.
(e) S.I. 1976/53.

SCHEDULE Article 2

PART I

1. In Schedule 1 to the Order:

(1) In section 4—

(*a*) for the words "2,000 gold francs" and "210 million gold francs" in subsection (1)(*b*) there shall be substituted respectively the words "133 special drawing rights" and "14 million special drawing rights"; and

(*b*) subsections (3) to (5) shall cease to have effect.

(2) In section 5, after subsection (2) there shall be inserted the following subsection—

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

(*a*) for the purposes of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

(i) the day on which the determination is made, or

(ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

(*b*) a certificate given by or on behalf of the Financial and Development Secretary stating—

(i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or

(ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

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.

(3) For the purposes of sections 10(2) and 11(1) references in Article VII of the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969 to Article V of the Convention shall be construed as references to Article V as amended by Article II of the protocol dated 19th November 1976 to the Convention; and in section 14(2) for the words "Article V thereof" there shall be substituted the words "Article V of the Convention as amended by Article II of the protocol dated 19th November 1976 to the Convention".

2. The amendments to the Act specified in this Part of this Schedule shall come into force on such day as the Governor may by Order appoint.

PART II

1. In Schedule 2 to the Order:

(1) Section 1(6) and (7) shall cease to have effect.

(2) In section 2(7)(*a*) and in section 4(10) after the words "the Fund Convention" there shall be inserted the words "(as amended by Article III of the protocol dated 19th November 1976 to that Convention)".

(3) At the end of section 4 there shall be inserted the following subsection—

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

(*a*) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

(i) the day on which the judgment is given, or

(ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

(*b*) a certificate given by or on behalf of the Financial and Development Secretary stating—

(i) that a particular sum in sterling has been so fixed for the day on which the judgment was given, or

(ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the judgment was given,

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.

(4) In section 5(1)(*a*) and (*b*) for the words "1,500 francs" and "2,000 francs" there shall be substituted respectively the words "100 special drawing rights" and "133 special drawing rights" and for the words "125 million francs" and "210 million francs" there shall be substituted respectively the words "8,333,000 special drawing rights" and "14 million special drawing rights".

(5) At the end of section 5 there shall be inserted the following subsection—

(8) For the purpose of converting into sterling 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—

(*a*) if the liability in question has been limited in pursuance of section 5 of the Merchant Shipping (Oil Pollution) Act 1971**(a)**, as if—

(i) for the reference in the said paragraph (*a*) to the amount there mentioned there was substituted a reference to the amount adjudged as aforesaid, and

(ii) for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the determination of the limit was made in pursuance of the said section 5; and

(*b*) if the liability in question has not been so limited, with the modification made by paragraph (*a*)(i) of this subsection and as if for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the said amount was so adjudged;

(6) In section 6(5)(*a*) after the words "as set out" there shall be inserted the words "as amended".

(7) In Schedule 1 to the Act for the words "450 million francs" wherever they occur there shall be substituted the words "30 million special drawing rights" and for the words "900 million francs" there shall be substituted the words "60 million special drawing rights".

2. The amendments to the Act specified in this Part of this Schedule shall come into force on such day as the Governor may by Order appoint and such Order may contain such transitional provisions as the Governor considers appropriate.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Merchant Shipping (Oil Pollution) (Gibraltar) Order 1975, which extended to Gibraltar with the necessary adaptations, the provisions of the Merchant Shipping (Oil Pollution) Act 1971 and the provisions of Parts I and V of, and of Schedule 1 to, the Merchant Shipping Act 1974. It takes into account the amendment of these Acts in the United Kingdom by section 38 of the Merchant Shipping Act 1979. The Order gives effect in Gibraltar to the Protocol of 19th November 1976 to the International Convention on Civil Liability for Oil Pollution Damage of 29th November 1969 (Cmnd. 7028) and the Protocol of 19th November 1976 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage of 18th December 1971 (Cmnd. 7029). The Protocols substitute special drawing rights for gold francs as the unit of account to be used in connection with each Convention.

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