STATUTORY INSTRUMENTS

1975 No. 2171

MERCHANT SHIPPING

The Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975

Made - - - -	*19th December* 1975
Laid before Parliament	*14th January* 1976
Coming into Operation	*3rd February* 1976

At the Court at Buckingham Palace, the 19th day of December 1975

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**), by section 20(1) of the Merchant Shipping Act 1974(**b**) 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) (Overseas Territories) Order 1975 and shall come into operation on 3rd February 1976.

2. The Interpretation Act 1889(**c**) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament.

3. The provisions of the Merchant Shipping (Oil Pollution) Act 1971 (except sections 17 and 18 thereof), shall extend to each of the territories, any one of which is in this Order referred to as " the Territory ", specified in Schedule 1 to this Order with the exemptions, adaptations and modifications specified in Schedule 2 to this Order.

4. The provisions of Part 1 and sections 22, 23 and 24 of, and Schedule 1 to the Merchant Shipping Act 1974 shall extend to each of the territories specified in Schedule 1 to this Order with the exceptions, adaptations and modifications specified in Schedule 3 to this Order.

5. Any reference in Schedules 2 and 3 to this Order to " Pitcairn " shall be construed as a reference to Pitcairn, Henderson, Ducie and Oeno Islands; any reference in the said Schedules to " Saint Helena " shall be construed as a reference to Saint Helena and its Dependencies; and any reference in the said Schedules to " the Sovereign Base Areas " shall be construed as a reference to the Sovereign Base Areas of Akrotiri and Dhekelia.

N. E. Leigh

(a) 1971 c. 59. (b) 1974 c. 43. (c) 1889 c. 63.

ARTICLES 3 AND 4 SCHEDULE 1

British Indian Ocean Territory.

Pitcairn, Henderson, Ducie and Oeno Islands.

Saint Helena and its Dependencies.

Sovereign Base Areas of Akrotiri and Dhekelia.

ARTICLE 3 SCHEDULE 2

1. For any reference to the United Kingdom there shall be substituted a reference to the Territory.

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 the Territory.

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:

" If the owner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person the owner shall be exonerated wholly or partially from his liability to such person ".

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. In section 10(6) for the words " on conviction on indictment to a fine, or on summary conviction to a fine not exceeding £35,000 " there shall be substituted in the case of:

(*a*) the British Indian Ocean Territory the words " on conviction to a fine ";

(*b*) the Sovereign Base Areas the words " on conviction on information to a fine or on summary conviction to a fine not exceeding 35,000 Cyprus pounds ".

7. In section 10(7) for the words " on summary conviction to a fine not exceeding £400 " there shall be substituted in the case of:

(*a*) the British Indian Ocean Territory the words " on conviction to a fine not exceeding 5,000 rupees ";

(*b*) the Sovereign Base Areas the words " on summary conviction to a fine not exceeding 400 Cyprus pounds ".

8. In section 11(4) for the words " on summary conviction to a fine not exceeding £200 " there shall be substituted in the case of:

(*a*) the British Indian Ocean Territory the words " on conviction to a fine not exceeding 2,500 rupees ";

(*b*) the Sovereign Base Areas the words " on summary conviction to a fine not exceeding 200 Cyprus pounds ".

9. For the provisions in section 11(5) there shall be substituted in the case of the British Indian Ocean Territory:

" The Administrator shall make available for public inspection a copy of any certificate issued by him under this section ".

10. In section 11(5) for the words " the Registrar General of Ships and Seamen " and " the Registrar " there shall be substituted in the case of:

(*a*) Pitcairn the words " the Island Magistrate ";

(*b*) Saint Helena the words " the Harbour Master ";

(*c*) the Sovereign Base Areas the words " the Chief Officer, Sovereign Base Areas Administration ".

11. For section 13(1) there shall be substituted in the case of the Sovereign Base Areas the words:

" The Admiralty jurisdiction of the Court shall include jurisdiction to hear and determine any claim for damage done by a ship and shall extend to any claim in respect of a liability incurred under this Act."

12. In section 13(3) for the words " Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 " there shall be substituted in the case of:

(*a*) Saint Helena the words " The Foreign Judgments (Reciprocal Enforcement) Ordinance 1961(**a**) " ;

(*b*) the Sovereign Base Areas the words " The Foreign Judgments (Reciprocal Enforcement) Law(**b**) " ;

and for the words " section 4 of that Act " in the said section 13(3) there shall be substituted " section 6 of that Ordinance " and " section 6 of that Law " in the case of Saint Helena and the Sovereign Base Areas respectively.

13. 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 in the case of:

(*a*) the British Indian Ocean Territory the words " the Supreme Court of Seychelles " ;

(*b*) Pitcairn the words " the Supreme Court of Pitcairn, Henderson, Ducie and Oeno Islands " ;

(*c*) Saint Helena the words " the Supreme Court of Saint Helena " ;

(*d*) the Sovereign Base Areas the words " the Senior Judge's Court of the Sovereign Base Areas of Akrotiri and Dhekelia ".

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

Column 1	*Column* 2
Section 4 ...	In subsection (4) the words " made by statutory instrument " ; In subsection (5) the words " (or, in Scotland, consigned in Court) ".
Section 6 ...	Subsection (2).
Section 10 ...	Subsection (9). 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 ".
Section 11 ...	Subsection (6). In subsection (1) the words " or any country which is not a Convention country ".
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 17 ...	The whole section.
Section 18 ...	The whole section. Subsections (1) and (4).
Section 21 ...	In subsection (3) the words " made by statutory instrument ".

(**a**) Laws of Saint Helena, No. 7 of 1961.
(**b**) Laws of Cyprus Revised Ed. 1959, Cap. 10.

15. 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 ".

ARTICLE 4

SCHEDULE 3

1. For any reference to the United Kingdom there shall be substituted a reference to the Territory.

2. Any reference to any enactment of the United Kingdom shall be construed as a reference to that enactment as applying or extended to the Territory.

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

4. In section 2(8)(*b*) for the words " on summary conviction by a fine not exceeding £400 " there shall be substituted in the case of:

(*a*) the British Indian Ocean Territory the words " on conviction by a fine not exceeding 5,000 rupees " ;

(*b*) the Sovereign Base Areas the words " on summary conviction by a fine not exceeding 400 Cyprus pounds ".

5. 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 ".

6. In section 3(6)(*b*) for the words:

" (i) on summary conviction to a fine not exceeding £400, and

(ii) on conviction on indictment to a fine, or to imprisonment for a term not exceeding 12 months, or to both."

there shall be substituted in the case of:

(*a*) the British Indian Ocean Territory the words " on conviction to a fine, or to imprisonment for a term not exceeding 12 months, or to both." ;

(*b*) the Sovereign Base Areas the words

" (i) on summary conviction to a fine not exceeding 400 Cyprus pounds, and

(ii) on conviction on information to a fine, or to imprisonment for a term not exceeding 12 months, or to both.".

7. For section 6(1) there shall be substituted in the case of the Sovereign Base Areas the words:

" The Admiralty jurisdiction of the Court shall include jurisdiction to hear and determine any claim for damage done by a ship and shall extend to any claim in respect of a liability falling on the Fund under this Act."

8. In section 6(4) for the words " Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 " there shall be substituted in the case of:

(*a*) Saint Helena the words " The Foreign Judgments (Reciprocal Enforcement) Ordinance 1961(**a**) " ;

(*b*) the Sovereign Base Areas the words " The Foreign Judgments (Reciprocal Enforcement) Law(**b**) " ;

and for the words " section 4 of that Act " in the said section 6(4) there shall be substituted the words " section 6 of that Ordinance " and " section 6 of that Law " in the case of Saint Helena and the Sovereign Base Areas respectively.

9. In section 6(5) for the words " Part I of the Act of 1933 " there shall be substituted the words " the Ordinance of 1961 " and " the Foreign Judgments

(**a**) Laws of Saint Helena, No. 7 of 1961.
(**b**) Laws of Cyprus Revised Ed. 1959, Cap. 10.

(Reciprocal Enforcement) Law " in the case of Saint Helena and the Sovereign Base Areas respectively.

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

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 amendment 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." ;
	Subsection (6)(*c*).
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 23 ...	Subsection 3.
Section 24 ...	Subsections (1), (4) and (5).
	In subsection (2) the words " by order made by statutory instrument " ;
	In subsection (3) the words " by the order ".

11. In sections 1(2) and 9 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 ".

EXPLANATORY NOTE

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

This Order extends to the British Indian Ocean Territory, Pitcairn, Saint Helena and the Sovereign Base Areas of Akrotiri and Dhekelia, the provisions of the Merchant Shipping (Oil Pollution) Act 1971, with the necessary adaptations, enabling effect to be given to the International Convention on Civil Liability for Oil Pollution Damage opened for signature in Brussels on 29th November 1969 (Cmnd. 4403). The Order also extends the provisions of Parts I and V of, and of Schedule 1 to the Merchant Shipping Act 1974, 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 opened for signature in Brussels on 18th December 1971 (Cmnd. 5061). 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.

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