

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

Sea Pollution Acts, 1991 and 1996

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-

"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

(e) in the case of a harbour under the management of Iarnród Éireann - Irish Rail, Iarnród Éireann - Irish Rail;

"Irish ship" means an Irish ship within the meaning of section 9 of the Mercantile Marine Act, 1955;

"local authority" means a local authority for the purposes of the Local Government Act, 1941;

"maritime administration" means a person in a state other than the State performing functions the same as or similar to those performed by the Minister under this Act;

"the Minister" means the Minister for the Marine and Natural Resources;

"offshore unit" means any fixed or floating offshore installation or structure, in the State or a designated area, engaged in gas or oil exploration, exploitation or production activities, or the loading or unloading of oil;

"oil handling facility" means a facility in the State or a designated area that presents an oil pollution risk and includes oil terminals, pipelines and other similar facilities;

"oil pollution emergency plan", in relation to a harbour, offshore unit, oil handling facility or an area of seashore in whole or in part within the functional area, or contiguous to the functional area, of a local authority, means a plan ap 19 area, of

(a) enter at any time a harbour or any part thereof, or an offshore unit or oil handling facility, for the purpose of exercising any powers conferred on him or her by this section,

(b) make inspections and carry out such tests as he or she thinks fit in relation to the carrying on of any activities in a harbour or in or on an offshore unit or oil handling facility including the monitoring and assessment of the effects on the marine environment of such activities,

(c) make such inspections and carry out such tests in a harbour or in or on an offshore unit or oil handling facility as he or she thinks fit for the purposes of monitoring and assessing the effects on the marine environment of any oil pollution incident, (d) require any person in a harbour or in or on an offshore unit or oil handling facility to produce to him or her such documents, records or materials as are in that person's possession or control relating to the oil pollution emergency plan in respect of the harbour, offshore unit or oil handling facility concerned and to give to him or her such information as he or she may reasonably require in respect of such documents, records or materials, or

(e) require any person holding any position of authority or responsibility in relation to the implementation of an oil pollution emergency plan in a harbour or in or on an offshore unit or oil handling facility to give to him or her such information as he or she may reasonably require in relation to the procedures employed or steps taken to ensure the carrying out of and compliance with such oil pollution emergency plan.

(4) Any person who-

(a) obstructs or impedes an authorised officer in the exercise of his or her powers under this section,

(b) without reasonable excuse, refuses or fails to comply with a requirement made of him or her under subsection (3), or (c) makes a statement or furnishes information to an authorised officer, pursuant to a requirement made of him or her under subsection (3) by such officer, that is false or misleading in a material respect, knowing it to be false or misleading or being reckless as to whether it is so false or misleading, shall be guilty of an offence.

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

(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 harbourmaster 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-

(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

(b) in relation to such area of seashore as he or she deems appropriate, give a direction (in writing or otherwise) to a local authority 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.

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

7.-The Principal Act is hereby amended by-

(a) the substitution of the following section for section 13: "13.-(1) Whenever there is an incident, whether on board or outside a ship-

(a) resulting in a discharge, in the State or a prescribed area, of a pollutant or quantity of a pollutant in excess of that permitted under section 10, from a ship, or

(b) giving rise to circumstances from which it is reasonable to infer that there is likely to be a discharge, in the State or a prescribed area, of a pollutant or quantity of a pollutant in excess of that permitted under section 10, from a ship, the master of the ship concerned or of any other ship involved in such incident or from which s

(2) Whenever a person on an offshore unit or oil handling facility observes an incident involving a discharge of oil in the State or a designated area, or an incident from which, having regard to all the circumstances observed, it would be reasonable to infer that a discharge of oil in the State or a designated area is likely to occur, or observes the presence of oil in the sea, he shall report the matter to the person, for the time being in charge of the offshore unit or oil handling facility concerned.

(3) A person for the time being in charge of an offshore unit or oil handling facility shall on receipt of a report under subsection (2) forthwith report the matter to the Minister.

(4) A harbour-master or person performing for the time being the functions of harbour-master in relation to a harbour shall on receipt of a report under subsection (1) forthwith report the matter to the Minister.

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

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

8.-(1) The Minister shall prepare a plan specifying the measures to be taken to prevent and minimise damage in the State resulting from discharges of oil from ships, offshore units and oil handling facilities (hereafter in this section referred to as "the plan").

(2) Without prejudice to the generality of subsection (1), the plan shall provide for-

(a) the placing, at such places in the State as may be specified therein, of such equipment and materials to be used in connection with the removal, degrading or disposal of discharges of oil into the sea or onto land as may be specified in the said plan, (b) the training of such persons or classes of persons as may be specified in the plan in the use of equipment and materials to which paragraph (a) applies, and generally in the carrying out of operations to prevent and minimise damage in the State resulting from discharges of oil from ships, offshore units or oil handling facilities, (c) the conducting of exercises by such persons or classes of persons and at such intervals as are specified in the plan to ensure the greater effectiveness of measures taken to prevent or minimise damage in the State resulting from discharges of oil from ships, offshore units or oil handling facilities (2) ~~When the Minister has the plan~~). improvement of co-operation and communication between persons required to comply with such provisions of the plan as are specified in a direction of the Minister under subsection (3), and

of the activities of persons to which paragraph

facilities, or for the training of persons in the carrying out of such operations.

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.

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.

(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.

(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.

(6) The Minister may attach such conditions as he or she considers appropriate to a permit under subsection (3).

(7) A person who contravenes subsection (1) or (2) or a condition attached to a permit under subsection (3) shall be guilty of an offence.

13.-Section 3 of the Principal Act is hereby amended by-

(a) in subsection (1)-

(i) the insertion in the definition of "maritime casualty" of "pollution," after the words "resulting in", and

(ii) the insertion of the following definition:

" 'prescribed area' means an area outside the State prescribed by the Minister for the purposes of this Act;"

(b) the insertion of the following subsection after subsection (2): "(2A) A reference in this Act to the State includes a reference to-

(a) the inland waters of the State,

(b) the territorial seas of the State, and the seabed and subsoil beneath those seas, and
