

Number 14 of 1996.
DUMPING AT SEA ACT, 1996.

AN ACT TO MAKE FURTHER PROVISION TO CONTROL DUMPING AT SEA, TO GIVE EFFECT TO THE CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC DONE AT PARIS ON THE 22ND DAY OF SEPTEMBER, 1992, AND FOR THOSE PURPOSES TO REPEAL AND RE-ENACT WITH AMENDMENTS THE DUMPING AT SEA ACT, 1981, AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.-In this Act, save where the context otherwise requires-

"authorised officer" shall be construed in accordance with section 6 (1) of this Act;

"company" has the same meaning as in the Companies Acts, 1963 to 1990;

"dumping" means-

(a) any deliberate disposal in the maritime area (including side-cast dredging, plough dredging, water injection dredging and other such dredging techniques) of a substance or material from or in conjunction with a vessel or aircraft or offshore installation,

(b) any deliberate disposal in the maritime area of vessels, aircraft or offshore installations,

but does not include-

(i) the disposal in accordance with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, or other applicable international law to which Ireland is a party, of a substance or a material incidental to, or derived from, the normal operations of a vessel or aircraft or offshore installation (or its equipment) other than a substance or a material transported by or to a vessel or aircraft or offshore installation for the purpose of disposal of such substance or material or derived from the treatment of such substance or material on such a vessel or aircraft or installation;

(ii) the discharge, for the purpose of dispersing or otherwise altering the distribution or character of any mineral oil on the surface of the sea, of a substance or material designed or intended for use for the purpose aforesaid and cognate words shall be construed accordingly;

(iii) placement of a substance or material or vessel or aircraft in the maritime area for a purpose other than the mere disposal thereof, provided that, if the placement is for a purpose other than that for which the substance or material or vessel or aircraft was originally designed or constructed, it is in accordance with the provisions of sections 2 and 5 of this Act;

(iv) the discarding of unprocessed fish or fish offal from fishing vessels;

"functions" includes powers and duties and a reference to the performance of a function includes a reference to the exercise of a power and the carrying out of a duty;

"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 Dún Laoghaire Harbour or a fishery harbour centre to which the Fishery Harbour Centres Act, 1968, applies or any other harbour under the control of the Minister, the said Minister,

(c) in the case of a harbour under the control of a local authority, the local authority concerned,

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

"Irish aircraft" means an aircraft registered in the State;

"Irish vessel" means a ship which is an Irish ship within the meaning of the Mercantile Marine Act, 1955, or a vessel which is owned by, leased or chartered to, an individual resident in the State or an Irish company, and is not registered under the law of another country;

"the London Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter done at London on the 29th day of December, 1972, as amended by the Consultative Meeting of Contracting Parties to the Convention on the 12th day of October, 1978;

"the maritime area" comprises-

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

(b) any area for the time being standing designated by order under section 2 of the Continental Shelf Act, 1968, for the purposes of that Act, and the waters above it, and

(c) any area which lies within a line, every point of which is at a distance of 200 nautical miles from the baselines for the purposes of the Maritime Jurisdiction Acts, 1959 to 1988, and the waters above it, provided that this subparagraph shall not be interpreted as constituting a claim by the State to any area which is under the jurisdiction of any other state and which the State otherwise recognises as being under such jurisdiction;

"master", in relation to a vessel, means the person having the command or charge of the vessel for the time being;

"the Minister" means the Minister for the Marine;

"offshore activities" means activities carried out in the sea for the purpose of the exploration, appraisal or exploitation of liquid and gaseous hydrocarbons;

"offshore installation" means any man-made structure, plant or vessel or parts thereof, whether floating or fixed to the seabed, placed in the sea for the purpose of offshore activities;

"substance or material" includes thing;

"territorial seas of the State" means the territorial seas of the State for the purpose of the Maritime Jurisdiction Acts, 1959 to 1988, and the internal waters of the State for the purposes of those Acts;

"vessel" includes an aircraft which is capable of landing on or taking off from water.

Restrictions on dumping at sea of vessels, aircraft, substances and material.

2.-(1) If any vessel or aircraft, substance or material-

(a) is dumped in the maritime area,

(b) is dumped anywhere in the sea outside the maritime area and the dumping is from an Irish vessel, or an Irish aircraft, or

(c) is loaded on to a vessel or aircraft in the State or in the maritime area for dumping,

the master and the owner of the vessel, or the pilot in command and the owner of the aircraft, as the case may be, and any other person who causes or permits the dumping or loading shall be guilty of an offence.

(2) It shall be a defence for a person ("the defendant") charged with an offence under this section to prove-

(a) that the commission of the offence was due to a mistake or to the act or default of another person or to an accident or some other cause beyond the defendant's control and that the defendant took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by the defendant or any person under the defendant's control, or

(b) that the dumping or loading concerned took place under and in accordance with a permit under section 5 of this Act, or, in the case of dumping to which subsection (1) (b) of this section relates, under and in accordance with a permit granted by another state that is party to the Convention for the Protection of the Marine

Prohibition of disposal of offshore installations and certain substances or material.

4.-(1) Subject to section 5 of this Act, a person who deliberately disposes of, or permits the disposal of, in the maritime area, an offshore installation or any substance or material from any such installation, and the person in charge of, and the owner of, the offshore installation concerned, shall be guilty of an offence.

(2) A person who deliberately disposes of, or permits the disposal of, in the maritime area-

(a) low, intermediate and high level radioactive substances or material, or

(b) toxic, harmful or noxious substances,

and the master and the owner of the vessel, or the pilot in command and the owner of the aircraft or the person in charge of and the owner of the offshore installation concerned, as the case may be, shall be guilty of an offence.

(3) Subsection (2) (a) of this section shall not apply to any radioactive substances or material below low level as prescribed by the Minister in consultation with the Radiological Protection Institute of Ireland.

Permits in relation to dumping.

5.-(1) (a) The Minister may, after consultation with the Minister for the Environment, the Minister for Enterprise and Employment, the Minister for Transport, Energy and Communications and such other Minister of the Government as the Minister considers appropriate, grant, or refuse to grant, a permit to a person who applies to the Minister for a permit authorising the dumping of a specified vessel, aircraft or offshore installation, or a specified quantity of a specified substance or material in a specified place within a specified period of time or the loading onto the vessel or aircraft, of a specified quantity of a specified substance or material at a specified place within a specified period of time, which is intended to be dumped from the vessel or aircraft concerned.

(b) In deciding whether to grant or refuse a permit under this subsection, the Minister shall consider-

(i) the provisions establishing criteria governing the grant of a permit for dumping which are set out in the First Schedule to this Act, and

(ii) (I) the exceptions to the prohibition on dumping as contained in the extracts from Annex II to the Convention for the Protection of the Marine Environment of the North-East Atlantic done at Paris on the 22nd day of September, 1992, which are set out in Part 1 of the Second Schedule to this Act, or

(II) the exceptions to the prohibition on dumping set out in Part 2 of the said Schedule and permitted under Annex III to the said Convention,

as may be appropriate.

(2) A person wh

of a condition of the said permit.

(4) The Minister may, after consultation with the Minister for the Environment, the Minister for Enterprise and Employment, the Minister for Transport, Energy and Communications and such other Minister of the Government as the Minister considers appropriate, revoke or amend a permit under this section, whenever the Minister deems it appropriate.

(5) The Minister may, with the consent of the Minister for Finance, charge, in respect of an application for a permit under this section, a fee of such amount as, in the opinion of the Minister, is appropriate having regard to the cost of any tests and investigations to be carried out for the purpose of enabling the Minister to decide whether to grant or refuse the application.

(6) The Minister may, with the consent of the Minister for Finance, in a case where the Minister proposes to grant a permit to a person under this section, charge the person (in addition to any fee paid by the person under subsection (5) of this section) a fee of such amount as, in the opinion of the Minister, is appropriate having regard to the cost of any monitoring, surveys and examinations carried out or to be carried out for the purposes of enabling the Minister-

(a) to determine where dumping may take place,

(b) to assess the effects of the dumping to which the permit relates on the marine environment and the living resources which it supports, and

(c) to ensure that the dumping to which the permit relates is carried out in accordance with that permit.

(7) A person who, in relation to an application for a permit under this section, makes a statement to the Minister that is false or misleading in a material respect shall be guilty of an offence unless it is shown that the person concerned did not, and could not reasonably have been expected to, know that the statement was false or misleading in a material respect.

(8) (a) b) of this subsection, be grl 1 n, be grTj ET 1 1/y a.2 322.08 TD 0.0022 abg 72 353Ats of the 0 rg n Tc 0.0

(c) open any container at the place or in the premises, vehicle, vessel, aircraft or installation,

(d) examine and take samples of any material or substance at the place or in the premises, vehicle, vessel, aircraft or installation,

(e) require any person at the place or in the premises, vehicle, vessel, aircraft or offshore installation to produce any document in the power or control of that person which the officer desires to see for the purposes aforesaid,

(f) inspect, examine and take copies of, or extracts from, any such document as aforesaid and require the person by whom any such document is kept or who produced the document to certify a copy thereof as a true

offence under this Act may be instituted-

(a) in every case, within two years from the date of the offence, and

(b) if at the expiration

Penalties.

10.-(1) A person guilty of an offence under this Act shall be liable, on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding 5 years or to both the fine and the imprisonment.

(2) A judge of the District Court shall have jurisdiction to try summarily an offence under this Act if-

(a) the judge is of the opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,

(b) the Attorney General consents, and

(c) the defendant (on being informed by the judge of the right to be tried by a jury) does not object to being tried summarily,
and upon conviction under this subsection, the said defendant shall be liable to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine and the imprisonment.

offence referred to in subsection (1) of this section or to any functions referred to in that subsection, be construed as references to the Attorney General.

Prosecution of offences under Sea Pollution Act, 1991, by Attorney General.

12.-(1) Section 3 of the Prosecution of Offences Act, 1974, shall not apply to the prosecution of an offence under the Sea Pollution Act, 1991, or to any functions in relation to that matter to which, but for this subsection, it would apply.

(2) References in Part II of the Criminal Procedure Act, 1967, and section 62 of the Courts of Justice Act, 1967, to the Attorney General, shall be construed as references to the Attorney General.

5. Persistence: physical, chemical and biological.
 6. Accumulation and biotransformation in biological materials or sediments.
 7. Chemical and physical changes of waste after release, including possible formation of new compounds.
 8. Probability of production of taints or other changes reducing marketability of resources (fish, shellfish, etc.).
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1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).
 2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).
 3. Methods of packaging and containment, if any.
 4. Initial dilution achieved by proposed method of release.
 5. Dispersal, horizontal transport and vertical BT of release.

constituents of which are unlikely to be released into the marine environment;

- (c) sewage sludge until 31st December, 1998;
- (d) fish waste from industrial fish processing operations;
- (e) vessels or aircraft until, at the latest, 31st December, 2004.

PART 2

THE EXCEPTIONS TO THE PROHIBITION ON DUMPING PERMITTED IN ACCORDANCE WITH ANNEX III TO THE CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC DONE AT PARIS ON THE 22ND DAY OF SEPTEMBER, 1992

Disused offshore installations dumped in accordance with a permit issued by the competent authority of the relevant Contracting Party on a case-by-case basis:

Provided that the Contracting Parties shall-

(a) ensure that their authorities, when granting permits, implement the relevant applicable decisions, recommendations and all other agreements adopted under the Convention, and

(b) refuse to issue a permit if the disused offshore installation contains substances which result, or are likely to result, in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

ACTS REFERRED TO

Companies Acts, 1963 to 1990	
Continental Shelf Act, 1968	1968, No. 14
Courts of Justice Act, 1936	1936, No. 48
Criminal Procedure Act, 1967	1967, No. 12
Dumping at Sea Act, 1981	1981, No. 8
Fisheries Act, 1980	1980, No. 1
Fishery Harbour Centres Act, 1968	1968, No. 18
Harbours Act, 1946	1946, No. 9
Marine Institute Act, 1991	1991, No. 2
Maritime Jurisdiction Acts, 1959 to 1988	
Mercantile Marine Act, 1955	1955, No. 29

Petty Sessions (Ireland) Act, 1851

1851, c. 93

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