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STATUTORY INSTRUMENTS

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**1991 No. 1219 (N.I. 10)**

**NORTHERN IRELAND**

**The Dangerous Vessels (Northern Ireland) Order 1991**

*Made* - - - - *21st May 1991*

*Coming into operation* *22nd July 1991*

At the Court of Saint James, the 21st day of May 1991

Present,

The Counsellors of State in Council

Whereas Her Majesty in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 3rd day of May 1991, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, His Royal Highness The Prince Andrew, Duke of York, and His Royal Highness The Prince Edward, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974(1), and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

**Title and commencement**

1. This Order may be cited as the Dangerous Vessels (Northern Ireland) Order 1991 and shall come into operation on the expiration of 2 months from the day on which it is made.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954(2) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of the Environment;

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(1) 1974 c. 28  
(2) 1954 c. 33 (N.I.)

“harbour” and “harbour authority” have the respective meanings given to them by section 38(1) of the Harbours Act (Northern Ireland) 1970<sup>(3)</sup>;

“harbour master” includes any dock master or pier master who is not a subordinate of a harbour master and any deputy or assistant of a harbour master or of such a dock master or pier master;

“vessel” includes—

- (a) a ship or boat, or any other description of craft used in navigation;
- (b) a rig, raft or floating platform, or any other moveable thing constructed or adapted for floating on, or partial or total submersion in, water; and
- (c) a seaplane, a hovercraft within the meaning of the Hovercraft Act 1968<sup>(4)</sup> or any other amphibious vehicle.

#### **Directions by harbour master concerning dangerous vessels etc.**

3.—(1) Subject to Article 5 and without prejudice to any other power already conferred upon him, a harbour master may give directions prohibiting the entry into, or requiring the removal from, the harbour for which he is harbour master of any vessel if in his opinion the condition of that vessel or the nature or condition of anything it contains is such that its presence in the harbour might involve—

- (a) grave and imminent danger to the safety of any person or property; or
- (b) grave and imminent risk that the vessel may, by sinking or foundering in the harbour, prevent or seriously prejudice the use of the harbour by other vessels.

(2) The directions referred to in paragraph (1) may be given as respects the vessel in question—

- (a) to the owner of the vessel, or to any person in possession of the vessel;
- (b) to the master of the vessel; or
- (c) to any salvor in possession of the vessel, or to any person who is the servant or agent of any salvor in possession of the vessel, and who is in charge of the salvage operation;

and in sub-paragraph (b) “master” means the person having command or charge of the vessel, but does not include a pilot (that is to say, a person not belonging to the vessel who has the conduct of it).

(3) In determining whether to give any directions under paragraph (1) in any particular case, a harbour master shall have regard to all the circumstances of that case and, in particular, he shall have regard to the safety of any person or vessel (whether that person or vessel is in or outside the harbour and including the vessel in question in that case).

(4) Directions may be given under paragraph (1) in any such reasonable manner as the harbour master may think fit.

(5) At the time any directions under paragraph (1) are given to any person, the harbour master giving the directions shall inform that person of the grounds for giving them.

#### **Application of Merchant Shipping (Liability of Shipowners and Others) Act 1900**

4. Where—

- (a) a harbour authority is liable for any loss or damage occurring outside the harbour of that authority in consequence of directions given by a harbour master in purported exercise of his powers under Article 3; and

<sup>(3)</sup> 1970 c. 1 (N.I.)

<sup>(4)</sup> 1968 c. 59

- (b) the provisions of the Merchant Shipping (Liability of Shipowners and Others) Act 1900<sup>(5)</sup> would apply so as to limit that liability if the loss or damage in question had occurred in that harbour;

then, for the purposes of that Act, that loss or damage shall be deemed to have occurred in that harbour.

### **Further directions by Department**

5.—(1) Where a harbour master has given directions under Article 3 as respects any vessel, the Department may, for the purpose of securing the safety of any person or vessel (including the vessel to which those directions relate), give directions under this Article to that harbour master requiring him—

- (a) to permit the vessel to which the directions given under Article 3 relate to enter and remain, or (as the case may be) to remain, in the harbour in question; and
- (b) to take such action (if any) as may be specified in the directions given under this Article, for the purpose of enabling the vessel to do so or for any connected purpose;

and the directions under Article 3 shall thereupon cease to have effect.

(2) A harbour master to whom any directions are given under this Article shall give notice of those directions as respects the vessel in question to the person to whom the directions under Article 3 were given or failing that, to any of the other persons mentioned in Article 3(2), in any such reasonable manner as the harbour master may think fit; and it shall be the duty—

- (a) of the harbour master to take any action in relation to that vessel specified in those directions; and
- (b) of the harbour master and the harbour authority to take all such further action as may be reasonably necessary to enable that vessel to enter and remain, or to remain, in the harbour.

### **Saving for section 12 of Prevention of Oil Pollution Act 1971 and sections 511 and 512 of Merchant Shipping Act 1894**

6.—(1) Nothing in Article 3 shall affect the exercise by the Secretary of State of any of the powers conferred on him by section 12 of the Prevention of Oil Pollution Act 1971<sup>(6)</sup>; and this paragraph applies to any person authorised by the Secretary of State under subsection (5) of that section to exercise the powers of the Secretary of State under subsection (4) of that section as it applies to the Secretary of State.

(2) Nothing in Article 3 shall affect the performance by a receiver of wreck of any of the functions conferred on him by sections 511 and 512 of the Merchant Shipping Act 1894<sup>(7)</sup>; and this paragraph applies to any officer or person who acts for a receiver of wreck under section 516 of that Act as it applies to such a receiver.

### **Offences**

7.—(1) A person who without reasonable excuse contravenes or fails to comply with any directions given under Article 3 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £25,000 and on conviction on indictment to a fine.

(2) It shall be a defence for a person charged under this Article to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

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(5) 1900 c. 32

(6) 1971 c. 60

(7) 1894 c. 60

**Saving for certain vessels**

8. No directions under Article 3 shall apply in relation to—
- (a) any vessel belonging to Her Majesty, or employed in the service of the Crown for any purpose, including any such vessel in the possession of a salvor; or
  - (b) any vessel which is a pleasure boat of 24 metres or less in length.

*G. I. de Deney*  
Clerk of the Privy Council

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order empowers harbour masters in Northern Ireland to give directions to prohibit vessels from entering the areas of jurisdiction of their respective harbour authorities or to require the removal of vessels from those areas where those vessels present a grave and imminent danger to the safety of any person or property, or risk of obstruction to navigation (Article 3).

Where a harbour master has given such directions the Department of the Environment may countermand them and give further directions to him (Article 5).