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**AN BILLE UM OLA-THRUAILLIU NA FARRAIGE  
(LEASU), 1976  
OIL POLLUTION OF THE SEA (AMENDMENT) BILL, 1976**

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*Mar a ritheadh ag dhá Theach an Oireachtais  
As passed by both Houses of the Oireachtas*

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AN BILLE UM OLA-THRUAILLIU NA FARRAIGE  
(LEASU), 1976  
OIL POLLUTION OF THE SEA (AMENDMENT) BILL, 1976

# BILL

entitled

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AN ACT TO GIVE EFFECT TO CERTAIN AMENDMENTS OF  
THE INTERNATIONAL CONVENTION FOR THE PRE-  
VENTION OF POLLUTION OF THE SEA BY OIL, 1954,  
AND FOR THAT AND OTHER PURPOSES TO AMEND  
AND EXTEND THE OIL POLLUTION OF THE SEA ACTS, 10  
1956 AND 1965.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

Interpretation.

1.—In this Act—

1956, No. 25.

“the Act of 1956” means the Oil Pollution of the Sea Act, 1956;

1965, No. 1.

“the Act of 1965” means the Oil Pollution of the Sea (Amend- 15  
ment) Act, 1965;

“the Convention of 1969” means the International Convention  
relating to Intervention on the High Seas in Cases of Oil Pollution  
Casualties, 1969;

“living marine resources” includes fish, spawning grounds or the 20  
food of any fish;

“marine fauna” means all wild animals (both aquatic and  
terrestrial) which occur in marine, coastal or estuarine habitats  
and includes in particular wild birds, wild mammals, reptiles,  
invertebrates and amphibians and all such wild animals’ eggs 25  
and young;

“marine flora” means all plants (both aquatic and terrestrial)  
which occur in the wild in marine, coastal or estuarine habitats  
and includes marine algae;

“maritime casualty” includes a collision of ships, the loss, strand- 30  
ing or abandonment of a ship, any other incident of navigation,  
or any other occurrence on board a ship or external to it which  
results in material damage or the imminent threat of material  
damage to a ship or cargo.

Power to give  
directions to  
prevent,  
mitigate, etc.,  
oil pollution.

2.—(1) Subject to *subsection (6)* of this section, for the purpose 35  
of preventing, mitigating or eliminating the effects of oil pollution  
arising from a maritime casualty, the Minister, or such persons  
as may be authorised in that behalf by him, may give directions  
concerning a ship or its cargo to the owner or master of the  
ship, or to any person who is in possession of the ship, or to the 40  
servant or agent of any salvor in possession of the ship and who  
is in charge of the salvage operation.

(2) Any direction given to any person pursuant to *subsection (1)*

of this section may require the person to whom it is given to take, or to refrain from taking, any action of any kind whatsoever in relation to the ship in respect of which the direction is given, or its cargo.

5 (3) Subject to *subsection (6)* of this section, if, in the opinion of the Minister, the powers conferred on him by *subsection (1)* of this section are, or have proved to be, inadequate for the purpose, the Minister, or such persons as may be authorised in that behalf by him, may take any action of any kind whatsoever in  
10 relation to the ship concerned or to its cargo for the purpose of preventing, mitigating or eliminating the effects of oil pollution arising from such maritime casualty.

(4) Without prejudice to the generality of any power conferred on the Minister, or on any person authorised by the Minister to  
15 act on his behalf, by this section, any directions given, or action taken, by or on behalf of the Minister may include—

- (a) the removal of a ship beyond the limits of a harbour, or the restraint or control of its movements,
- (b) the unloading or discharge of oil or other cargo,
- 20 (c) the taking, or restriction on taking, of specified salvage measures, or
- (d) the sinking, destruction or taking over of control of a ship concerned.

(5) Without prejudice to the provisions of any other enactment  
25 relating to the service of notices, the Minister, or any person authorised in that behalf by the Minister, may give directions—

- (a) to the owner or person in possession of a ship, by serving the direction on the master of the ship,
- (b) to the salvor, by serving the direction on the person in  
30 charge of the salvage operations.

(6) The powers conferred on the Minister by this section may be exercised—

(a) if, but only if, the Minister has reasonable cause to believe, following a maritime casualty, that there is grave and  
35 imminent danger of major harmful consequences through pollution by oil to the coastline of the State or related interests including—

- (i) maritime, coastal, port or estuarine activities, constituting an essential means of livelihood for  
40 persons concerned,
- (ii) the tourist amenities of the area concerned,
- (iii) the conservation of marine fauna and marine flora and the habitats of such fauna and flora,
- (iv) the health of the coastal population and the well-being of the area concerned including conservation  
45 of living marine resources, and

(b) in respect of any ships registered in the State or any ships that are within the territorial seas, or the inland waters navigable by sea-going vessels, of the State.

50 (7) Any person who wilfully contravenes or fails to comply with a direction under this section, or who wilfully obstructs any person who is acting in compliance with a direction under this section, shall be guilty of an offence.

(8) Every person who complies with a direction under this  
55 section shall take all possible means to avoid any risk to human life and, in a prosecution of a person for failure to comply with

a direction under this section, it shall be a defence for the person to establish that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

Right to  
recover  
compensation  
from Minister.

3.—(1) Any person who establishes that any action taken 5  
pursuant to *section 2* of this Act, or in pursuance of a direction  
given pursuant to *section 2* of this Act—

(a) was not reasonably necessary to prevent, or to reduce, oil  
pollution or the risk of such pollution, or

(b) was such that the damage it prevented, or was likely to 10  
prevent was disproportionately less than any expense  
incurred or damage suffered as a result of the action,

shall be entitled to recover compensation in a court of competent  
jurisdiction from the Minister in respect of any loss or damage  
suffered or unnecessary expense incurred by such person as a result 15  
of the action so taken.

(2) In considering whether a person is entitled to recover  
compensation from the Minister pursuant to *subsection (1)* of this  
section, account shall be taken of—

(a) the extent and risk of oil pollution if no action had been 20  
taken pursuant to *section 2* of this Act,

(b) the extent and risk of major damage to the coastline of  
the State,

(c) the likelihood of the action being effective, and

(d) the extent of the damage which had been caused by the 25  
action.

Right of  
Minister to  
take action.

4.—The provisions of *section 3* of this Act are without prejudice  
to the right of the Minister, or of any injured party, to take action 30  
against a third party in any case where there is a maritime casualty  
and it appears that the maritime casualty occurred by reason of  
the negligence or default of such third party.

Application of  
Act to ships  
outside  
territorial  
waters of  
State.

5.—(1) The Government may, by order made under this  
section, apply, in whole or in part and subject to such exceptions,  
adaptations and modifications as may be specified in the order, the 35  
provisions of *section 2* of this Act to ships to which the Conven-  
tion of 1969 applies when such ships are outside the territorial  
seas of the State.

(2) An order made under *subsection (1)* of this section may  
contain such transitional and consequential provisions as appear 40  
to the Government to be necessary or expedient.

(3) The Government may by order amend or revoke an order  
under this section including this subsection.

(4) In this section “ships to which the Convention of 1969  
applies” means ships registered in—

(a) a country, the government of which has been declared 45  
by order made under *section 19* of the Act of 1956 to  
have accepted the Convention of 1969 or any sub-  
sequent convention and has not been subsequently  
declared to have denounced any such convention, or

(b) a territory to which any such convention has been declared 50  
to extend and to which it has not been subsequently  
declared to have ceased to extend.

Power to  
detain  
vessels.

6.—(1) Whenever the Minister or a harbour master has  
reasonable cause to believe that a vessel is in breach of the Act

of 1956, the Act of 1965, or of this Act, and the vessel is within the territorial seas of the State, the Minister, or the harbour master concerned, may halt and detain the vessel.

5 (2) Any vessel which is detained by the Minister or by a harbour master pursuant to subsection (1) of this section shall be released if the owner of the vessel enters into a bond in such amount as may be determined by the Minister or the harbour master, as the case may be.

10 7.—Proceedings for an offence under this Act, the Act of 1956, or the Act of 1965, may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place. Place of offence.

15 8.—Section 3 of the Act of 1956 is hereby amended by the substitution for the definition of “harbour authority” of the following definition— Amendment of section 3 of Act of 1956.

“harbour authority” means—

(a) in the case of a harbour to which the Harbours Act, 1946 (No. 9 of 1946), applies, the harbour authority under that Act, Amendment of section 3 of Act of 1956.

20 (b) in the case of a harbour under the control and management of the Commissioners of Public Works in Ireland, the Commissioners,

(c) in the case of a fishery harbour centre to which the Fishery Harbour Centres Act, 1968 (No. 18 of 1968), applies, the Minister for Fisheries, and

25 (d) in any other case, the person entitled to charge rates in respect of vessels entering or using the harbour.

30 9.—Section 10 of the Act of 1956 (as amended by the Act of 1965) is hereby amended by the substitution for subsection (3) of the following subsection— Amendment of section 10 of Act of 1956.

“ (3) The owner and also the master of any ship registered in the State which discharges oil, or any mixture containing oil, anywhere at sea shall be guilty of an offence.”

35 10.—Section 11 of the Act of 1956 is hereby amended by the substitution for subsection (1) of the following subsection— Amendment of section 11 of Act of 1956.

40 “ (1) (a) If any oil or oily mixture is discharged (directly or indirectly) into the territorial seas of the State, or into any of its inland waters that are navigable by sea-going vessels, or on its seashore, then, if the discharge is—

(i) from a vessel, the owner and also the master of the vessel,

(ii) from a place on land, the occupier of that place,

45 (iii) from apparatus for transferring oil to or from a vessel, the person in charge of the apparatus, shall be guilty of an offence.

(b) In this subsection “seashore” has the same meaning as in the Foreshore Act, 1933 ”. 1933, No. 12.

50 11.—(1) If any oil or oily mixture is discharged, other than pursuant to section 14 of the Act of 1956, into the territorial seas. Report of discharge into territorial seas.

seas of the State, the owner and master of the vessel, the occupier of the place or the person in charge of the apparatus, as the case may be, from which the discharge occurred shall forthwith report the fact and cause of the occurrence to the Minister in the prescribed manner.

(2) A person who fails to comply with *subsection (1)* of this section shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

Amendment of section 16 of Act of 1956.

12.—Section 16 of the Act of 1956 is hereby amended by the substitution for subsection (1) of the following subsection—

“(1) The Minister may make regulations requiring ships or certain categories of ships registered in the State to be so fitted or so constructed, and to comply with such requirements, as to prevent or reduce the discharge of oil or oily mixtures into the sea.”

Amendment of section 17 of Act of 1956.

13.—Section 17 of the Act of 1956 is hereby amended by—

(a) the substitution for subsection (1) (c) of the following paragraph—

“(c) the carrying out of prescribed operations being—

(i) the loading, transfer and discharge of oil cargo, or

(ii) the ballasting of and discharge of ballast from cargo tanks or bunker fuel tanks, and the cleaning of such tanks, or

(iii) the separation of oil in any oily mixture, or

(iv) the disposal from the ship of any oil, water or other substance arising from such operations, or

(v) the disposal of any oily residue.”, and

(b) the substitution for subsections (4) and (5) of the following subsections—

“(4) Every person who contravenes this section or regulations under it shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment.

(5) Every person who makes in a record any entry or alteration which is to his knowledge false or misleading in any material respect shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment, or

(b) on conviction on indictment, to a fine not exceeding five thousand pounds, or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment”.

Amendment of section 19 of Act of 1956.

14.—Section 19 of the Act of 1956 is hereby amended by the substitution for subsection (4) of the following subsection—

“(4) Any person who impedes a surveyor of ships or other person in the exercise of his functions under this section, or

who, on being so required, fails to produce the oil record book for inspection or to certify a copy of an entry shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment."

15.—Section 21 of the Act of 1956 is hereby amended by—

Amendment of section 21 of Act of 1956.

(a) the insertion in subsection (1) before paragraph (f) of the following paragraph—

10                   “(ee) take samples of any oil from any ship”, and

(b) the substitution for subsection (3) of the following subsection—

“ (3) If any person—

15                   (a) on being summoned as a witness before an inspector and tendered the expenses to which he is entitled under this section, makes default in attending, or refuses to take an oath legally required by the inspector to be taken, or

20                   (b) refuses or neglects to make any answer, or to give any return or to produce any document, or to make or subscribe any declaration, or to certify a copy of any entry, which the inspector is entitled to require, or

25                   (c) wilfully impedes a person in the exercise of his functions under this section,

30                   he shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.”

16.—Section 22 of the Act of 1956 is hereby amended by the substitution for subsection (2) of the following subsection—

Amendment of section 22 of Act of 1956.

“ (2) If any person—

(a) fails to comply with any such requirement, or

35                   (b) wilfully impedes a harbour master in the exercise of his functions under this section,

40                   he shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.”

17.—The Act of 1956 is hereby amended by the substitution for section 23 of the following section—

Penalties.

“ 23.—Every person who commits an offence under this Act for which no special penalty is provided shall—

45                   (a) on summary conviction, be liable to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment, or

50                   (b) on conviction on indictment, be liable to a fine not exceeding one hundred thousand pounds (together with, in the case of a continuing offence, a further fine not exceeding ten thousand pounds for every day on which the offence is continued).”

**Repeals.**

**18.—(1)** Section 9 of, and the Schedule to, the Act of 1956 are hereby repealed.

**(2)** Sections 3, 4, 6 and 8 (a) of the Act of 1965 are hereby repealed.

**Commencement.**

**19.—**This Act shall come into operation on such day or days as the Minister shall by order appoint, and different days may be appointed for the purposes of different provisions.

**Short title, construction and collective citation.**

**20.—(1)** This Act may be cited as the Oil Pollution of the Sea (Amendment) Act, 1977.

**(2)** The Oil Pollution of the Sea Acts, 1956 and 1965, and this Act shall be construed together as one Act.

**(3)** The Oil Pollution of the Sea Acts, 1956 and 1965, and this Act may be cited together as the Oil Pollution of the Sea Acts, 1956 to 1977.



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BILLE

*dá ngairtear*

Acht do thabhairt éifeachta do leasuithe áirithe ar an gCoinbhinsiún Idirnáisiúnta chun Truailiú na Farraige le hOla a Chosc, 1954, agus chun na críche sin agus chun críocha eile do leasú agus do leathnú na nAchtanna um Ola-Thruailiú na Farraige, 1956 agus 1965.

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*Ritheadh ag dhá Theach an Oireachtais,  
25 Bealtaine, 1977*

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BILL

*entitled*

An Act to give effect to certain amendments of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and for that and other purposes to amend and extend the Oil Pollution of the Sea Acts, 1956 and 1965.

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*Passed by both Houses of the Oireachtas,  
25th May, 1977*

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