



BRITISH INDIAN OCEAN TERRITORY

**REVISED ORDINANCES OF THE  
BRITISH INDIAN OCEAN TERRITORY**

**THE PREVENTION OF  
OIL POLLUTION ORDINANCE 1994**

**CHAPTER E.4**

**Revised Edition**

Showing the law as at 1 September 2020

Published by Authority

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This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Ordinance 2015 and contains a consolidation of the following laws:

The Prevention of Oil Pollution Ordinance 1994 - Ordinance No.7 of 1994

As amended by:

Ordinance No.4 of 2016

Ordinance No.5 of 2019

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TERRITORY**

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1994**

**CHAPTER E.4**

ARRANGEMENT OF SECTIONS

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**CHAPTER E.4**

*An Ordinance to prevent the pollution of the waters of the Territory by the discharge or escape of oil and to provide for matters connected with or incidental thereto.*

**Citation.**

1. This Ordinance may be cited as the Prevention of Oil Pollution Ordinance 1994, ROBIOT c.E.4.

**Definitions.**

2. (1) In this Ordinance, unless the contrary intention appears –

**oil** means oil of any description and includes spirit produced from oil of any description, and also includes coal tar;

**place on land** includes anything resting on the bed or shore of the waters of the Territory and also includes anything afloat (other than a vessel) if it is anchored or attached to the bed or shore of such waters;

**occupier**, in relation to any such thing as is mentioned in the preceding provisions of this definition, if it has no occupier, means the owner thereof, and, in relation to a road vehicle, means the person in charge of the vehicle and not the occupier of the land on which the vehicle stands;

**transfer**, in relation to oil, means transfer in bulk;

**vessel** means a merchant vessel;

**the waters of the Territory** means –

(a) the territorial sea of the Territory; and

(b) all seawaters on the landward side of the baselines from which the territorial sea of the Territory is measured.

(2) Any reference in this Ordinance to a mixture containing oil shall be construed as a reference to any mixture of oil with water or any other substance.

(3) Any reference in this Ordinance, other than in section 6, to the discharge of oil or a mixture containing oil from a vessel, except where the reference is to its being discharged for a specific purpose, includes a reference to the escape of the oil or mixture from that vessel.

(4) For the purposes of any provision of this Ordinance relating to the discharge of oil or a mixture containing oil from a vessel, any floating craft (other than a vessel) which is attached to a vessel shall be treated as part of the vessel.

### **Discharge of oil into the waters of the Territory.**

3. If any oil or mixture containing oil is discharged as mentioned in the following paragraphs into the waters of the Territory, then, subject to the provisions of this Ordinance, the following shall be guilty of an offence under this section, that is to say –

(a) if the discharge is from a vessel, the owner or master of the vessel, unless he proves that the discharge took place and was caused as mentioned in paragraph (b);

(b) if the discharge is from a vessel but takes place in the course of a transfer of oil to or from another vessel or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other vessel or that place, the owner or master of that other vessel or, as the case may be, the occupier of that place;

(c) if the discharge is from a place on land, the occupier of that place, unless he proves that the discharge was caused as mentioned in paragraph (d);

(d) if the discharge is from a place on land and is caused by the act of a person who is in that place without the permission (express or implied) of the occupier, that person.

### **Discharge of oil from a pipe-line.**

4. If any oil or mixture containing oil is discharged into the waters of the Territory from a pipe-line, then, subject to the provisions of this Ordinance, the owner of the pipe-line shall be guilty of an offence under this section unless the discharge was from a place in his occupation and he proves that it was due to the act of a person who was there without his permission (express or implied) in which case that person shall be guilty of the offence.

### **Defences of persons charged with offences under section 3 or section 4.**

5. (1) Where a person is charged with an offence under section 3 as the owner or master of a vessel, it shall be a defence to prove that the oil or mixture was discharged for the purpose of securing the safety of any vessel, or of

preventing damage to any vessel or cargo, or of saving life, unless the court is satisfied that the discharge of the oil or mixture was not necessary for that purpose or was not a reasonable step to take in the circumstances.

(2) Where a person is charged as mentioned in subsection (1), it shall also be a defence to prove –

(a) that the oil or mixture escaped in consequence of damage to the vessel and that, as soon as practicable after the damage occurred, all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture; or

(b) that the oil or mixture escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to any want of reasonable care, and that, as soon as practicable after the escape was discovered, all reasonable steps were taken for stopping or reducing it.

(3) Where a person is charged, in respect of the escape of any oil or mixture containing oil, with an offence under section 3 or section 4 as the occupier of a place on land or as the owner of a pipe-line, it shall be a defence to prove that neither the escape nor any delay in discovering it was due to any want of reasonable care and that, as soon as practicable after it was discovered, all reasonable steps were taken for stopping or reducing it.

#### **Duty to report discharge of oil.**

6. (1) If any oil or mixture containing oil –

(a) is discharged from a vessel into the waters of the Territory;

(b) is found to be escaping or to have escaped from a vessel into those waters; or

(c) is found to be escaping or to have escaped from a place on land or from a pipe-line into those waters, the owner or the master of the vessel or, as the case may be, the occupier of the place on land or the owner of the pipe-line shall forthwith report the occurrence to the Commissioner's Representative.

(2) A report made under subsection (1) by the owner or master of a vessel shall state whether the occurrence falls within paragraph (a) or paragraph (b) of that subsection.

(3) If a person fails to make a report as required by this section he shall be guilty of an offence under this section.

## **Penalties and enforcement.**

7. (1) Any person guilty of an offence under section 3 or under section 4 shall be liable on conviction by the Magistrate's Court (and despite section 169(1) of the Criminal Procedure code 2019) to a fine not exceeding £50,000 or on conviction by the Supreme Court to a fine.

(2) Any person guilty of an offence under section 6 shall be liable to a fine not exceeding £2,000.

(3) Despite section 39 of the Criminal Procedure Code 2019, any proceedings in respect of an offence under this Ordinance may be commenced at any time after the commission of the offence.

(4) The limitation imposed by section 197 of the Criminal Procedure Code 2019 upon the costs that a court may order to be paid shall not apply to the costs that may be so ordered upon the conviction of any person of an offence under this Ordinance or upon the acquittal or discharge of any person charged with such an offence or upon the determination of any appeal against any such conviction.

(5) Where, upon the conviction of the master or owner of a vessel of an offence under this Ordinance, the court orders him to pay a sum by way of fine or costs or both, it may, on application made by or with the authority of the Principal Legal Adviser, further order that, in default of payment forthwith of the sum due, he shall give security, to the satisfaction of the court, for the payment of that sum, failing which the vessel shall be detained in such manner and circumstances as the Commissioner's Representative may direct (and no part of the vessel's cargo, tackle, furniture or apparel may, save with the consent of the Commissioner's Representative, be removed from the vessel) until, subject to subsection (6), the sum is paid or the security is given or until the court otherwise orders.

(6) If, at the expiry of a period of 30 days (or such longer period as the court may allow) after a vessel has been ordered to be detained under subsection (5), the sum has still not been paid nor the security given, then, without prejudice to any other powers for enforcing payment, the court may, on application made by or with the authority of the Principal Legal Adviser and subject to such terms, if any, as it thinks just, order that the vessel, its cargo, tackle, furniture and apparel be forfeited to the Crown, to be disposed of as the Commissioner may direct.

