



BERMUDA

DANGEROUS VESSELS ACT 1990

1990 : 72

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WHEREAS it is expedient to empower harbour masters to give directions to vessels which present a grave and imminent danger to the safety of any person or property or risk of obstruction to navigation; to enable the Minister to give further directions countermanding those first mentioned directions; to provide for ships to proceed on a safe course and for connected purposes;

[words of enactment omitted]

Short Title

1 This act may be cited as the Dangerous Vessels Act 1990 and shall come into operation on such date as the Minister may appoint by notice published in the Gazette.

[this Act was brought into operation on 25 January 1991 by BR 3/1991]

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Interpretation

- 2 In this Act, unless the context otherwise requires—
- “the Authority” means the Ports Authority established under the Marine and Ports Services Act 2021 ;
- “the Director” has the meaning assigned to it in the Marine and Ports Services Act 2021 ;
- “harbour master” includes any person deputed to perform the duties of harbour master;
- “Minister” means the Minister responsible for marine and ports services;
- “ports” has the meaning assigned to it under the Marine and Ports Services Act 2021 ;
- “vessel” includes—
- (a) a ship or boat or any other description of craft used in navigation; or
 - (b) a rig, raft or floating platform, or any other movable thing constructed or adapted for floating on, or partial or total submersion in water.

[Section 2 "Minister" deleted and substituted by BR 5/2011 para. 5 effective 25 February 2011; Section 2 definitions "the Authority", "the Director" and "ports" amended by 2021 : 8 s. 98(1) effective 23 January 2023]

Directions by harbour master concerning dangerous vessels, etc.

- 3 (1) Subject to section 5 and without prejudice to any other power already conferred upon him, the harbour master may give directions prohibiting the entry into, or requiring the removal from, a port of any vessel if in his opinion the condition of the vessel or the nature or condition of anything it contains is such that its presence in the port 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 port, prevent or seriously prejudice the use of the port by other vessels.
- (2) The directions referred to in subsection (1) may be given as respects the vessel in question—
- (a) to the owner or manager of the vessel, or to any person in possession of the vessel;
 - (b) to the master of the vessel;
 - (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;

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- (d) if it is not practicable after reasonable enquiry to ascertain any of the persons mentioned in paragraph (a) to (c) (inclusive), by affixing them or a copy of them to some conspicuous part of the vessel; or
- (e) if it is not practicable to give them under paragraphs (a) to (d) (inclusive), by transmitting them to the vessel by any available means,

and in paragraph (b) of this subsection, “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 subsection (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 subsection (1) in any such reasonable manner as the harbour master may think fit.

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

Application of UK. Act 1900 c.82 S.I. 1963 No. 1632

4 Where—

- (a) the Authority is liable for any loss or damage occurring outside the port of that Authority in consequence of directions given by a harbour master in purported exercise of his powers under section 3; and
- (b) the provisions of the Merchant Shipping (Liability of Shipowners and Others) Act 1900 of the United Kingdom, as extended to Bermuda by the Shipowners Liability (Colonial Territories) Order in Council 1963, would apply so as to limit that liability if the loss or damage in question had occurred in that port;

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

Further directions by Minister

5 (1) Where a harbour master has given directions under section 3 as respects any vessel, the Minister 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 section to that harbour master requiring him—

- (a) to permit the vessel to which the directions given under section 3 relate to enter and remain, or (as the case may be) to remain, in the port in question, and

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- (b) to take such action (if any) as may be specified in the directions given under this section, for the purpose of enabling the vessel to do so or for any connected purpose;

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

(2) A harbour master to whom any directions are given under this section shall give notice of those directions as respects the vessel in question to the person to whom the directions under section 3 were given or failing that, to any of the other persons mentioned in section 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 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 port.

Vessel to proceed on safe course

6 (1) The Director or any person duly authorised on his behalf may request the master of any vessel which is standing into danger within the territorial waters to proceed on a safe course outside the territorial waters.

(2) A request made pursuant to subsection (1) may be given by any available means; however, the person who made the request shall as soon as practicable thereafter make a written statement of the circumstances pertaining to the request which statement shall be signed by him.

Savings for safety directions

6A Directions under section 3 of this Act shall have no effect in so far as they—

- (a) are inconsistent with the exercise by or on behalf of the Minister, of a power under Schedule 3A to the Merchant Shipping Act 2002 (Safety directions);
- (b) would interfere with a person's compliance with a direction under that Schedule; or
- (c) would interfere with an action by virtue of that Schedule.

[Section 6A inserted by 2020 : 22 s. 10 effective 16 June 2020]

Saving of UK. Acts 1971 c.60 1894 c.60 S.I. 1980 No. 1520

7 (1) Nothing in section 3 shall affect the exercise by the Minister of any of the powers conferred on him by section 12 of the Prevention of Oil Pollution Act 1971 of the United Kingdom as extended to Bermuda by the Prevention of Oil Pollution Act 1971 (Bermuda) Order 1980 ; and this subsection applies to any person authorized by the Minister under subsection (5) of that section to exercise the powers of the Minister under subsection (4) of that section as it applies to the Minister.

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(2) Nothing in section 3 shall affect the performance by a receiver of any of the functions conferred on him by sections 511 and 512 of the Merchant Shipping Act 1894 of the United Kingdom that form part of the law of Bermuda; and this subsection 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

8 (1) A person who without reasonable excuse contravenes or fails to comply with any directions given under section 3 is guilty of a felony and is liable on conviction by a court of summary jurisdiction to a fine of seventy-five thousand dollars and on conviction on indictment to a fine or to imprisonment for five years or to both at the discretion of the court.

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

Saving for certain vessels

9 No directions under section 3 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 twenty-four metres or less in length.

[this Act was brought into operation on 25 January 1991 by BR 3/1991]

[Amended by:

BR 5 / 2011

2020 : 22

2021 : 8]