

Pollution of the Sea by Oil

No. 131 of 1972

An Act relating to the Prevention of the Pollution of the Sea by Oil.

[Assented to 2 November 1972]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1) This Act may be cited as the *Pollution of the Sea by Oil Act 1972*. Short title and citation.

(2) The *Pollution of the Sea by Oil Act 1960–1965** is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Pollution of the Sea by Oil Act 1960–1972*.

2.—(1) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

(2) Sections 3, 4 and 9 of this Act shall come into operation on a date to be fixed by Proclamation, not being earlier than the date on which the 1969 Amendments, within the meaning of the Principal Act as amended by this Act, come into force for Australia.

3. Section 3 of the Principal Act is amended—

(a) by omitting from sub-section (1.) the definitions of “ discharge ”, “ oil ”, “ oily mixture ”, “ ship ” and “ tanker ”;

(b) by adding at the end of the definition of “ the Convention ” in sub-section (1.) the words “ and by the 1969 Amendments ”;

(c) by adding at the end of sub-section (1.) the following definition:—

“ ‘ the 1969 Amendments ’ means the amendments to the 1954 Convention that were adopted on the twenty-first day of October, One thousand nine hundred and sixty-nine, by the Assembly of the Inter-Governmental Maritime Consultative Organization, being the amendments a copy of the English text of which is set out in the Fourth Schedule to this Act.”; and

(d) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“ (2.) Unless the contrary intention appears, an expression that is used in this Act and in the Convention (whether or not a particular meaning is assigned to it by the Convention) has, in this Act, the same meaning as in the Convention.”

* Act No. 11, 1960, as amended by No. 4, 1965.

4. Section 6 of the Principal Act is repealed and the following section inserted in its stead:—

Discharge of
oil, &c.,
into sea.

“ 6.—(1.) Subject to this Act, if any discharge of oil or of an oily mixture occurs from an Australian ship into the sea, the owner and the master of the ship are each guilty of an offence punishable, on conviction, by a fine not exceeding Fifty thousand dollars.

“(2.) In relation to the discharge of an oily mixture from the bilges of a ship, the last preceding sub-section does not apply until a date fixed by the Minister, by notice published in the *Gazette*, as the date on and after which that sub-section so applies.

“(3.) In any proceedings for an offence against this section, it is a defence in relation to the discharge of oil or of an oily mixture from a ship other than a tanker or from the machinery space bilges of a tanker, if the defendant proves that—

- (a) the discharge occurred when the ship was proceeding *en route*;
- (b) the instantaneous rate of discharge of oil content did not exceed sixty litres per mile;
- (c) the discharge was made as far as practicable from land; and
- (d) in the case of a discharge of an oily mixture—the oil content of the discharge was less than one hundred parts in one million parts of the mixture.

“(4.) In any proceedings for an offence against this section, it is a defence in relation to the discharge of oil or of an oily mixture from a tanker, not being a discharge from the machinery space bilges of the tanker, if the defendant proves—

- (a) that—
 - (i) the discharge occurred when the tanker was proceeding *en route*;
 - (ii) the instantaneous rate of discharge of oil content did not exceed sixty litres per mile;
 - (iii) the discharge was made when the tanker was more than fifty miles from the nearest land; and
 - (iv) if the discharge occurred on a ballast voyage—the total quantity of oil discharged on the voyage did not exceed one-fifteen thousandth of the total cargo-carrying capacity of the tanker; or
- (b) that the discharge was the discharge of ballast from a cargo tank that, after the cargo had last been carried in the tank, had been so cleaned that any effluent from the tank, if it had been discharged into clean calm water on a clear day while the tanker was stationary, would not have produced any visible traces of oil on the surface of the water.

“(5.) In any proceedings for an offence against this section, it is a defence if the defendant proves that—

- (a) the discharge of the oil or of the oily mixture from the ship was for the purpose of securing the safety of a ship, preventing damage to a ship or cargo or saving life at sea; or
- (b) the oil or the oily mixture escaped from the ship in consequence of damage to the ship or unavoidable leakage and that all reasonable precautions were taken after the occurrence of the damage or the discovery of the leakage for the purpose of preventing or minimizing the escape of the oil or of the oily mixture.”.

5. After section 6 of the Principal Act the following section is inserted:—

“6A.—(1.) Subject to the next succeeding sub-section, an offence against the last preceding section shall be prosecuted on indictment.

Proceedings for offences against section 6.

“(2.) Proceedings for an offence against the last preceding section may, with the consent of the defendant and of the prosecutor, be heard and determined by a court of summary jurisdiction, but such a court shall not impose a fine exceeding Two thousand dollars.”.

6. Section 7 of the Principal Act is amended by omitting from sub-section (3.) the words “One hundred pounds” and inserting in their stead the words “Two thousand dollars”.

Powers of inspection, &c.

7. Section 9 of the Principal Act is amended—

(a) by inserting after sub-section (3.) the following sub-section:—

“(3A.) The trial on indictment of an offence against section six of this Act may be held—

- (a) in any State; or
- (b) in any Territory of the Commonwealth, being a Territory forming part of the Commonwealth, in which a court having jurisdiction to try the offence may sit.”; and
- (b) by omitting paragraph (b) of sub-section (4.) and inserting in its stead the following paragraphs:—

“(b) their examination and commitment for trial on indictment;

(c) their trial and conviction on indictment; and

(d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith.”.

Jurisdiction of courts.

8. Section 13 of the Principal Act is amended by omitting from paragraph (d) of sub-section (1.) the words “Five hundred pounds” and inserting in their stead the words “Five thousand dollars”.

Regulations.

9. The Principal Act is amended by adding at the end thereof the Schedule set out in the Schedule to this Act.

Schedule.

Transitional.

10. With respect to an offence against section 6 of the Principal Act committed on or after the date of commencement of this section and before the date fixed under sub-section (2.) of section 2 of this Act, section 6 of the Principal Act applies as if the words " One thousand pounds " were omitted from sub-section (5.) and the words " Fifty thousand dollars " were inserted in their stead.

Application of amendments.

11. The amendments made by sections 5, 6 and 7 of this Act apply with respect to offences committed on or after the date of commencement of those sections.

THE SCHEDULE

Section 9.

SCHEDULE TO BE ADDED TO THE PRINCIPAL ACT

FOURTH SCHEDULE

Section 3.

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION OF THE SEA BY OIL, 1954 AND ITS ANNEXES

ARTICLE I

The existing text of paragraph (1) is replaced by the following:

(1) For the purposes of the present Convention, the following expressions shall (unless the context otherwise requires) have the meanings hereby respectively assigned to them that is to say:

- ' The Bureau ' has the meaning assigned to it by Article XXI;
- ' Discharge ' in relation to oil or to oily mixture means any discharge or escape howsoever caused;
- ' Heavy diesel oil ' means diesel oil, other than those distillates of which more than 50 per cent by volume distils at a temperature not exceeding 340°C. when tested by A.S.T.M. Standard Method D.86/59;
- ' Instantaneous rate of discharge of oil content ' means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant;
- ' Mile ' means a nautical mile of 6,080 feet or 1,852 metres;
- ' Nearest Land '. The term ' from the nearest land ' means ' from the base-line from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958 ';
- ' Oil ' means crude oil, fuel oil, heavy diesel oil and lubricating oil, and ' oily ' shall be construed accordingly;
- ' Oily mixture ' means a mixture with any oil content;
- ' Organization ' means the Inter-Governmental Maritime Consultative Organization;
- ' Ship ' means any sea-going vessel of any type whatsoever, including floating craft, whether self-propelled or towed by another vessel, making a sea voyage; and ' tanker ' means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

FOURTH SCHEDULE—*continued*

ARTICLE III

The existing text of Article III is replaced by the following:

Subject to the provisions of Articles IV and V:

- (a) the discharge from a ship to which the present Convention applies, other than a tanker, of oil or oily mixture shall be prohibited except when the following conditions are all satisfied:
 - (i) the ship is proceeding en route;
 - (ii) the instantaneous rate of discharge of oil content does not exceed 60 litres per mile;
 - (iii) the oil content of the discharge is less than 100 parts per 1,000,000 parts of the mixture;
 - (iv) the discharge is made as far as practicable from land;
- (b) the discharge from a tanker to which the present Convention applies of oil or oily mixture shall be prohibited except when the following conditions are all satisfied:
 - (i) the tanker is proceeding en route;
 - (ii) the instantaneous rate of discharge of oil content does not exceed 60 litres per mile;
 - (iii) the total quantity of oil discharged on a ballast voyage does not exceed 1/15,000 of the total cargo-carrying capacity;
 - (iv) the tanker is more than 50 miles from the nearest land;
- (c) the provisions of sub-paragraph (b) of this Article shall not apply to:
 - (i) the discharge of ballast from a cargo tank which, since the cargo was last carried therein, has been so cleaned that any effluent therefrom, if it were discharged from a stationary tanker into clean calm water on a clear day, would produce no visible traces of oil on the surface of the water; or
 - (ii) the discharge of oil or oily mixture from machinery space bilges, which shall be governed by the provisions of sub-paragraph (a) of this Article.

ARTICLE IV

Paragraph (c) is deleted.

ARTICLE V

The existing text of Article V is replaced by the following:

Article III shall not apply to the discharge of oily mixture from the bilges of a ship during the period of twelve months following the date on which the present Convention comes into force for the relevant territory in accordance with paragraph (1) of Article II.

ARTICLE VII

The existing text of Article VII is replaced by the following:

(1) As from a date twelve months after the present Convention comes into force for the relevant territory in respect of a ship in accordance with paragraph (1) of Article II, such a ship shall be required to be so fitted as to prevent, as far as reasonable and practicable, the escape of oil into bilges, unless effective means are provided to ensure that the oil in the bilges is not discharged in contravention of this Convention.

(2) Carrying water ballast in oil fuel tanks shall be avoided if possible.

ARTICLE IX

The existing texts of paragraphs (1) and (2) are replaced by the following:

(1) Of the ships to which the present Convention applies, every ship which uses oil fuel and every tanker shall be provided with an oil record book, whether as part of the ship's official log book or otherwise, in the form specified in the Annex to this Convention.

(2) The oil record book shall be completed on each occasion, on a tank-to-tank basis, whenever any of the following operations take place in the ship:

FOURTH SCHEDULE—continued

(a) for tankers:

- (i) loading of oil cargo;
- (ii) transfer of oil cargo during voyage;
- (iii) discharge of oil cargo;
- (iv) ballasting of cargo tanks;
- (v) cleaning of cargo tanks;
- (vi) discharge of dirty ballast;
- (vii) discharge of water from slop-tanks;
- (viii) disposal of residues;
- (ix) discharge overboard of bilge water containing oil which has accumulated in machinery spaces whilst in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate log book;

(b) for ships other than tankers:

- (i) ballasting or cleaning of bunker fuel tanks;
- (ii) discharge of dirty ballast or cleaning water from tanks referred to under (i) of this sub-paragraph;
- (iii) disposal of residues;
- (iv) discharge overboard of bilge water containing oil which has accumulated in machinery spaces whilst in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate log book.

In the event of such discharge or escape of oil or oily mixture as is referred to in Article IV, a statement shall be made in the oil record book of the circumstances of, and the reason for, the discharge or escape.

ARTICLE X

The existing text of paragraph (2) is replaced by the following:

(2) Upon receiving such particulars, the Government so informed shall investigate the matter, and may request the other Government to furnish further or better particulars of the alleged contravention. If the Government so informed is satisfied that sufficient evidence is available in the form required by its law to enable proceedings against the owner or master of the ship to be taken in respect of the alleged contravention, it shall cause such proceedings to be taken as soon as possible. That Government shall promptly inform the Government whose official has reported the alleged contravention, as well as the Organization, of the action taken as a consequence of the information communicated.

ANNEX A

Annex A is deleted.

ANNEX B

Annex B is deleted and replaced by the following:

ANNEX

FORM OF OIL RECORD BOOK
I—FOR TANKERS

Name of ship.....

Total cargo carrying capacity of ship in cubic metres.....

(a) Loading of oil cargo

1. Date and place of Loading			
2. Types of oil loaded			
3. Identity of tank(s) loaded			

FOURTH SCHEDULE—continued

(b) *Transfer of oil cargo during voyage*

4. Date of transfer			
5. Identity of tank(s)	i	From	
	ii	To	
6. Was(were) tank(s) in 5(i) emptied?			

(c) *Discharge of oil cargo*

7. Date and place of discharge			
8. Identity of tank(s) discharged			
9. Was(were) tank(s) emptied?			

(d) *Ballasting of cargo tanks*

10. Identity of tank(s) ballasted			
11. Date and position of ship at start of ballasting			

(e) *Cleaning of cargo tanks*

12. Identity of tank(s) cleaned			
13. Date and duration of cleaning			
14. Methods of cleaning*			

(f) *Discharge of dirty ballast*

15. Identity of tank(s)			
16. Date and position of ship at start of discharge to sea			
17. Date and position of ship at finish of discharge to sea			
18. Ship's speed(s) during discharge			
19. Quantity discharged to sea			
20. Quantity of polluted water transferred to slop tank(s) (identify slop tank(s))			
21. Date and port of discharge into shore reception facilities (if applicable)			

* Hand hosing, machine washing or chemical cleaning. Where chemically cleaned, the chemical concerned and the amount used should be stated.

FOURTH SCHEDULE—continued

(g) Discharge of water from slop tanks

22. Identity of slop tank(s)	
23. Time of settling from last entry of residues, or	
24. Time of settling from last discharge	
25. Date, time and position of ship at start of discharge	
26. Sounding of total contents at start of discharge	
27. Sounding of interface at start of discharge	
28. Bulk quantity discharged and rate of discharge	
29. Final quantity discharged and rate of discharge	
30. Date, time and position of ship at end of discharge	
31. Ship's speed(s) during discharge	
32. Sounding of interface at end of discharge	

(h) Disposal of residues

33. Identity of tank(s)	
34. Quantity disposed from each tank	
35. Method of disposal of residue: (a) Reception facilities (b) Mixed with cargo (c) Transferred to another (other) tank(s) (identity tank(s)) (d) Other method	
36. Date and port of disposal of residue	

(i) Discharge overboard of bilge water containing oil which has accumulated in machinery spaces (including pump rooms) whilst in port*

37. Port			
38. Duration of stay			
39. Quantity disposed			
40. Date and place of disposal			
41. Method of disposal (state whether a separator was used)			

* The routine discharge at sea of bilge water containing any oil from machinery spaces including pump room bilges need not be entered in the oil record book but, if not, it must be entered in the appropriate log book, stating whether or not the discharge was made through a separator. Where the pump starts automatically and discharges through a separator at all times it will be sufficient to enter each day 'Automatic discharge from bilges through separator'.

FOURTH SCHEDULE—continued

(j) *Accidental or other exceptional discharges of oil*

42. Date and time of occurrence			
43. Place or position of ship at time of occurrence			
44. Approximate quantity and type of oil			
45. Circumstances of discharge or escape and general remarks			

.....Signature of Officer or Officers in Charge of operation concerned

.....Signature of Master

II—FOR SHIPS OTHER THAN TANKERS

Name of ship.....

(a) *Ballasting or cleaning of bunker fuel tanks*

1. Identity of tank(s) ballasted			
2. Whether cleaned since they last contained oil and, if not, type of oil previously carried			
3. Date and position of ship at start of cleaning			
4. Date and position of ship at start of ballasting			

(b) *Discharge of dirty ballast or cleaning water from tanks referred to under (a)*

5. Identity of tank(s)			
6. Date and position of ship at start of discharge			
7. Date and position of ship at finish of discharge			
8. Ship's speed(s) during discharge			
9. Method of discharge (state whether separator used)			
10. Quantity discharged			

FOURTH SCHEDULE—continued

(c) Disposal of residues

11. Quantity of residue retained on board			
12. Methods of disposal of residue: (a) reception facilities (b) mixed with next bunkering (c) transferred to another (other) tank(s)			
13. Date and port of disposal of residue			

(d) Discharge overboard of bilge water containing oil which has accumulated in machinery spaces whilst in port*

14. Port			
15. Duration of stay			
16. Quantity disposed			
17. Date and place of disposal			
18. Method of disposal (state whether separator was used)			

(e) Accidental or other exceptional discharges of oil

19. Date and time of occurrence			
20. Place or position of ship at time of occurrence			
21. Approximate quantity and type of oil			
22. Circumstances of discharge or escape and general remarks			

.....Signature of Officer or Officers in charge of operations concerned

.....Signature of Master

* The routine discharge at sea of bilge water containing any oil from machinery spaces need not be entered in the oil record book but if not, it must be entered in the appropriate log book, stating whether or not the discharge was made through a separator. Where the pump starts automatically and discharges through a separator at all times it will be sufficient to enter each day 'Automatic discharge from bilges through a separator'.