ACTS OF THE PARLIAMENT OF SOUTH AUSTRALIA

1987

PART I

ACTS OF THE PARLIAMENT OF SOUTH AUSTRALIA

1987

With Tables and Indexes

PART I

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ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 1 of 1987

An Act to amend the Meat Hygiene Act, 1980.

[*Assented to 5 March 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Meat Hygiene Act Amendment Act, 1987".

(2) The Meat Hygiene Act, 1980, is in this Act referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of s. 6—Constitution of the Meat Hygiene Authority.

3. Section 6 of the principal Act is amended—

(a) by striking out from subsection (1) "three members" and substituting "four members";

and

(b) by inserting after paragraph *(b)* of subsection (1) the following paragraph:

(ba) one shall be a person appointed by the Minister upon the nomination of the Minister of the Commonwealth for the time being responsible for the administration of the *Meat Inspection Act* 1983 of the Commonwealth;.

Amendment of s. 9—Quorum, etc.

4. Section 9 of the principal Act is amended by striking out "Two" from subsection (1) and substituting "Three".

Amendment of s. 50—Slaughtering at abattoirs.

5. Section 50 of the principal Act is amended by striking out "an Inspector" and substituting "an Inspector or a Commonwealth Inspector".

Amendment of s. 51—Offences relating to branding of meat.

6. Section 51 of the principal Act is amended by striking out from subsection (1) "unless he is an Inspector or is acting at the direction of an Inspector" and substituting "unless the person is, or is acting on the direction of, an Inspector or a Commonwealth Inspector".

Amendment of s. 52—Prohibition on sale of meat produced at unlicensed works.

7. Section 52 of the principal Act is amended by inserting after "an Inspector" in paragraph *(a)* of subsection (1) "or a Commonwealth Inspector".

Amendment of s. 55—Prohibition on sale of pet food produced at unlicensed abattoir or pet food works.

8. Section 55 of the principal Act is amended by inserting "abattoir or" after "licensed".

Amendment of s. 60—Evidence.

9. Section 60 of the principal Act is amended by inserting after "licensed" in subparagraph (x) of paragraph *(a)* "abattoir or".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 2 of 1987

An Act to amend the Business Franchise (Petroleum Products) Act, 1979, the Financial Institutions Duty Act, 1983, the Land Tax Act, 1936, the Pay-roll Tax Act, 1971, and the Stamp Duties Act, 1923.

[*Assented to 5 March 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Statutes Amendment (Taxation) Act, 1987."

Amendment of Business Franchise (Petroleum Products) Act, 1979.

2. The Business Franchise (Petroleum Products) Act, 1979, is amended by striking out section 32 and substituting the following section:

Secrecy.

32. A person shall not divulge or communicate information acquired in, or in connection with, the administration of this Act, except—

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the administration of this Act;

(c) to—

(i) the Commonwealth Commissioner of Taxation;

or

(ii) an officer of this or another State, or of a Territory, employed in the administration of laws relating to taxation;

(d) to the Commissioner for Corporate Affairs;

or

(e) for the purposes of legal proceedings under this Act.

Penalty: $10 000.

Amendment of Financial Institutions Duty Act, 1983.

3. The Financial Institutions Duty Act, 1983, is amended by striking out paragraph *(c)* of section 12 and substituting the following paragraph:

(c) to—

(i) the Commonwealth Commissioner of Taxation;

or

(ii) an officer of this or another State, or of a Territory, employed in the administration of laws relating to taxation;.

Amendment of Land Tax Act, 1936.

4. The Land Tax Act, 1936, is amended by striking out section 7 and substituting the following sections:

Commissioner may act as a State taxation officer.

7. The Commissioner may perform the functions of a State taxation officer under Part IIIA of the *Taxation Administration Act* 1953 of the Commonwealth.

Secrecy.

7a. A person shall not divulge or communicate information acquired in, or in connection with, the administration of this Act, except—

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the administration of this Act;

(c) to—

(i) the Commonwealth Commissioner of Taxation;

or

(ii) an officer of this or another State, or of a Territory, employed in the administration of laws relating to taxation;

(d) to the Commissioner for Corporate Affairs;

or

(e) for the purposes of legal proceedings under this Act.

Penalty: $10 000.

Amendment of Pay-roll Tax Act, 1971.

5. The Pay-roll Tax Act, 1971, is amended by striking out section 7 and substituting the following section:

Secrecy.

7. A person shall not divulge or communicate information acquired in, or in connection with, the administration of this Act, except—

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the administration of this Act;

(c) to—

(i) the Commonwealth Commissioner of Taxation;

or

(ii) an officer of this or another State, or of a Territory, employed in the administration of laws relating to taxation;

(d) to the Commissioner for Corporate Affairs;

or

(e) for the purposes of legal proceedings under this Act.

Penalty: $10 000.

6. The Stamp Duties Act, 1923, is amended— Amendment of Stamp Duties Act, 1923.

(a) by striking out paragraph *(c)* of section 6a and substituting the following paragraph:

(c) to—

(i) the Commonwealth Commissioner of Taxation;

or

(ii) an officer of this or another State, or of a Territory, employed in the administration of laws relating to taxation;;

and

(b) by inserting after section 6a the following section:

6b. The Commissioner may perform the functions of a State taxation officer under Part IIIA of the *Taxation Administration Act* 1953 of the Commonwealth. Commissioner may act as State taxation officer.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

MEAT INSPECTION (COMMONWEALTH POWERS) ACT, 1987

No. 3 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Reference of legislative powers to the Commonwealth
5. Expiry of this Act

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 3 of 1987

An Act to refer to the Parliament of the Commonwealth certain matters relating to the inspection of meat.

[*Assented to 5 March 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Meat Inspection (Commonwealth Powers) Act, 1987".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Interpretation.

3. In this Act—

"abattoir" means a licensed abattoir under the Meat Hygiene Act, 1980:

"meat" means any part, or product resulting from the processing of any part, of the body of any animal, intended for human consumption or for use as animal food.

Reference of legislative powers to the Commonwealth.

4. The matter of the inspection of meat at abattoirs in the State, to the extent to which it is not otherwise included in the legislative powers of the Parliament of the Commonwealth, is referred to that Parliament for a period—

(a) commencing when this Act comes into operation;

and

(b) ending on the expiry of this Act,

but no longer.

Expiry of this Act.

5. If the Governor fixes, by proclamation, a day for the expiry of this Act, it will expire on the day so fixed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 4 of 1987

An Act to amend the Petroleum (Submerged Lands) Act, 1982.

[*Assented to 5 March 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Petroleum (Submerged Lands) Act Amendment Act, 1987".

(2) The Petroleum (Submerged Lands) Act, 1982, is in this Act referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of s. 3—Arrangement.

3. Section 3 of the principal Act is amended—

(a) by inserting after the item:

DIVISION II—EXPLORATION PERMITS FOR PETROLEUM

the item:

DIVISION IIA—RETENTION LEASES FOR PETROLEUM;

and

(b) by inserting after the item:

DIVISION VI—GENERAL

the item:

DIVISION VIA—POWERS OF AUTHORIZED PERSONS.

Amendment of s. 4—Interpretation.

4. Section 4 of the principal Act is amended—

(a) by inserting at the end of the definition of "application for a primary licence" in subsection (1) "or under section 39a (1) or (2)";

(b) by inserting at the end of the definition of "application for a secondary licence" in subsection (1) "or under section 39a (3)";

(c) by inserting after "section" in the definition of "block" in subsection (1) "7a or";

(d) by inserting after the definition of "inspector" in subsection (1) the following definitions:

"lease" means a retention lease under Part III:

"lease area" means the area constituted by the blocks that are the subject of a lease:

"lessee" means the registered holder of a lease:;

(e) by inserting "or lease" after "permit" wherever occurring in the definition of "partly determined" in subsection (1);

(f) by striking out from subsection (1) the definition of "primary entitlement" and substituting the following definition:

"primary entitlement" means—

(a) in relation to a permittee—the number of blocks forming part of a location in the permit area in respect of which that permittee may make an application under section 39 (1);

and

(b) in relation to a lessee—the number of blocks in the lease area in respect of which that lessee may make an application under section 39a (1);";

(g) by inserting at the end of the definition of "primary licence" in subsection (1) "or under section 39a (1) or (2)";

(h) by inserting at the end of the definition of "secondary licence" in subsection (1) "or under section 39a (3)";

(i) by inserting "lease," after "permit," wherever occurring in the definition of "registered holder" in subsection (1);

(j) by inserting ", special prospecting authority" after "pipeline licence" wherever occurring in the definition of "registered holder" in subsection (1);

(k) by striking out from the definition of "the adjacent area"—

(i) "and includes, subject to subsection (3), an area which—";

and

(ii) paragraphs *(a)*, *(b)* and *(c)*;

(l) by inserting ", lease" after "permit" wherever occurring in paragraph *(a)* of the definition of "the relinquished area" in subsection (1);

(m) by inserting "or lease" after "permit" wherever occurring in paragraph *(b)* of the definition of "the relinquished area" in subsection (1);

(n) by inserting after paragraph *(c)* of the definition of "the relinquished area" in subsection (1) the following paragraph:

(ca) in relation to a lease that has been wholly cancelled—the area constituted by the blocks in respect of which the lease was in force;;

(o) by inserting "lease," after "permit," wherever occurring in the definition of "wholly cancelled" in subsection (1);

(p) by inserting "or lease" after "permit" wherever occurring in the definition of "wholly determined" in subsection (1);

(q) by striking out subsection (3);

(r) by inserting in subsections (4) and (10) "lease," after "permit," wherever occurring;

(s) by striking out from subsection (4) "ceases to have effect" and substituting "ceases to be in force";

(t) by striking out subsection (5) and substituting the following subsection:

(5) In this Act, a reference to a year of the term of a permit, lease, licence or pipeline licence is a reference to a period of one year commencing on the day on which the permit, lease, licence or pipeline licence, as the case may be, comes into force or on any anniversary of that day.;

and

(u) by inserting after subsection (6) the following subsection:

(6a) In this Act, a reference to the renewal, or the grant of a renewal, of a lease is a reference to the grant of a lease in respect of the blocks in respect of which the first mentioned lease was in force to commence on the day after the date of expiration of the first mentioned lease or on the day after the date of expiration of the lease granted upon a previous renewal of the first mentioned lease.

Amendment of s. 6— Petroleum pool extending into 2 licence areas.

5. Section 6 of the principal Act is amended by striking out subsection (10) and substituting the following subsection:

(10) In this section a reference to a licence, a licensee or a licence area shall be read as including a reference to a permit and a lease, a permittee and a lessee or a permit area and a lease area.

Insertion of new section.

6. The following section is inserted after section 7 of the principal Act:

Certain portions of blocks to be blocks.

7a. (1) Where the area in respect of which a permit, lease, licence or prescribed instrument is in force includes one or more portions of a block constituted as provided by section 16, then, for the purposes of this Part—

(a) the area of that portion or those portions constitutes a block;

and

(b) the area of the remaining portion or portions of the first mentioned block (but not including any part of that area in respect of which a permit, lease, licence or prescribed instrument is in force) constitutes a block.

(2) Where a permit, lease, licence or prescribed instrument ceases to be in force in respect of an area that constitutes a block as provided by subsection (1) *(a)*, the Minister may, by instrument in writing, if the Minister considers it desirable to do so, determine that that block

shall be amalgamated with another block or blocks, being a block or blocks—

(a) constituted as provided by this section;

(b) forming part of the graticular section of which that first mentioned block forms part;

and

(c) in respect of which a permit, lease or licence is in force.

(3) Where such a determination is made, then, for the purposes of this Part—

(a) the blocks the subject of the determination cease to constitute blocks and the areas of those blocks together constitute a block;

and

(b) the block constituted by reason of the determination is, subject to this Part, for the remainder of the term of the permit, lease or licence concerned, a block in respect of which the permit, lease or licence is in force.

(4) The Minister shall not make a determination under subsection (2) except with the consent of the permittee, lessee or licensee concerned.

(5) In this section—

"prescribed instrument" means a special prospecting authority, an access authority and any other instrument prescribed by regulation.

7. Section 17 of the principal Act is amended— Amendment of s. 17— Reservation of blocks.

(a) by inserting ", lease" after "permit" in subsection (1);

(b) by inserting "lease," after "permit," in subsection (1);

and

(c) by inserting "lease," after "permit," in subsection (2).

8. Section 22 of the principal Act is amended by striking out paragraph *(a)* of subsection (1) and substituting the following paragraphs: Amendment of s. 22— Application for permit in respect of surrendered, etc., blocks.

(a) a lease is surrendered, cancelled or determined as to a block or blocks;

(aa) a licence is surrendered or cancelled as to a block or blocks;.

9. Section 28 of the principal Act is amended by inserting after "the day on which the permit is granted" wherever occurring "or, if a later day is specified in the permit as being the day on which the permit is to come into force, on that later day". Amendment of s. 28— Term of permit.

10. Section 34 of the principal Act is amended by striking out "specified" secondly occurring in subsection (1) and substituting "specifies". Amendment of s. 34— Directions by Minister on discovery of petroleum.

11. Section 35 of the principal Act is amended by inserting after "section" in subparagraph (ii) of paragraph *(b)* of subsection (5) "37b (7) or". Amendment of s. 35— Nomination of block for purposes of declaring location.

Amendment of s. 36—Declaration of location.

12. Section 36 of the principal Act is amended—

(a) by inserting in subsection (2) "in respect of that block or one or more of those blocks" after "the declaration be revoked";

and

(b) by inserting in subsection (2) "in the manner requested" after "revoke the declaration".

Insertion of new Division IIA in Part III.

13. The following Division is inserted into Part III of the principal Act after Division II:

DIVISION IIA—RETENTION LEASES FOR PETROLEUM

Application by permittee for lease.

37a. (1) A permittee whose permit is in force in respect of a block that constitutes, or the blocks that constitute, a location may, within the application period, make an application to the Minister for the grant of a lease in respect of that block, or in respect of one or more of those blocks, as the case may be.

(2) An application under subsection (1)—

(a) shall be in accordance with an approved form;

(b) shall be made in an approved manner;

(c) shall be accompanied by particulars of—

(i) the proposals of the applicant for work and expenditure in respect of the area comprised in the blocks specified in the application;

and

(ii) the commercial viability of the recovery of petroleum from the area comprised in the blocks specified in the application at the time of the application, and particulars of the possible future commercial viability of the recovery of petroleum from that area;

(d) may set out any other matters that the applicant wishes to be considered;

and

(e) shall be accompanied by a fee of $600.

(3) The Minister may, at any time, by instrument in writing served on the applicant, require the applicant to furnish, within the time specified in the instrument, further information in writing in connection with the application.

(4) The application period in respect of an application under this section by a permittee is—

(a) the period of 2 years after the date on which the block that constitutes the location concerned was, or the blocks that constitute the location concerned were, declared to be a location;

or

(b) such other period, not less than 2 years or more than 4 years after that date, as the Minister, on application in

writing by the permittee, served on the Minister before the end of the first mentioned period of 2 years, allows.

Grant or refusal of lease in relation to application.

37b. (1) Where—

(a) an application has been made under section 37a;

(b) the applicant has furnished any further information as and when required by the Minister under section 37a (3);

and

(c) the Minister is satisfied that recovery of petroleum from the area comprised in the blocks specified in the application—

(i) is not, at the time of the application, commercially viable;

and

(ii) is likely to become commercially viable within the period of 15 years after that time,

the Minister shall, by instrument in writing served on the applicant, inform the applicant—

(d) that the Minister is prepared to grant to the applicant a lease in respect of the block or blocks specified in the application;

and

(e) that the applicant will be required to lodge a security for compliance with the conditions to which the lease, if granted, will from time to time be subject and with the provisions of this Part and the regulations.

(2) Where an application has been made under section 37a and—

(a) the applicant has not furnished any further information as and when required by the Minister under section 37a (3);

or

(b) the Minister is not satisfied as to the matters referred to in subsection (1) *(c)* in relation to the blocks specified in the application,

the Minister shall, by instrument in writing served on the applicant, refuse to grant a lease to the applicant.

(3) An instrument under subsection (1) shall contain—

(a) a summary of the conditions subject to which the lease is to be granted;

and

(b) a statement to the effect that the application will lapse if the applicant does not make a request under subsection (4) in respect of the grant of the lease and lodge with the Minister the security referred to in the instrument.

(4) An applicant on whom there has been served an instrument under subsection (1) may, within a period of one month after the

date of service of the instrument, or within such further period, not exceeding one month, as the Minister, on application in writing served on the Minister before the end of the first mentioned period of one month, allows—

(a) by instrument in writing served on the Minister, request the Minister to grant to the applicant the lease;

and

(b) lodge with the Minister the security referred to in the first mentioned instrument.

(5) Where an applicant on whom there has been served an instrument under subsection (1)—

(a) has made a request under subsection (4);

and

(b) has lodged with the Minister the security referred to in the instrument,

within the period applicable under subsection (4), the Minister shall grant to the applicant a retention lease in respect of the block or blocks specified in the instrument.

(6) Where an applicant on whom there has been served an instrument under subsection (1)—

(a) has not made a request under subsection (4);

or

(b) has not lodged with the Minister the security referred to in the instrument,

within the period applicable under subsection (4), the application lapses upon the expiration of that period.

(7) On the day on which a lease granted under this section in respect of a block or blocks comes into force, the permit in respect of the block or blocks ceases to be in force in respect of those blocks.

Rights conferred by lease.

37c. A lease, while it remains in force, authorizes the lessee, subject to this Act and in accordance with the conditions to which the lease is subject, to explore for petroleum, and to carry on such operations and execute such works as are necessary for that purpose, in the lease area.

Term of lease.

37d. Subject to this Part, a lease (whether granted by way of renewal of a lease or otherwise) remains in force for a period of 5 years commencing on the day on which the lease was granted or, if a later day is specified in the lease as being the day on which the lease is to come into force, on that later day.

Notice of intention to cancel lease.

37e. (1) Where—

(a) a lessee has been given a notice of the kind referred to in section 37h (3) *(b)* during the term of the lease and has carried out, and has informed the Minister of the results of, the re-evaluation required by the notice;

(b) the lessee has not made an application for the renewal of the lease;

and

(c) after consideration of the results of the re-evaluation referred to in paragraph *(a)* and such other matters as the Minister thinks fit, the Minister is of the opinion that recovery of petroleum from the lease area is commercially viable,

the Minister may serve on the lessee and on such other persons as the Minister thinks appropriate an instrument in writing—

(d) informing the lessee or the other person that the Minister has formed that opinion and that the Minister intends to cancel the lease;

and

(e) stating that the lessee or the other person may serve an instrument in writing on the Minister within the period specified in the first mentioned instrument, not being a period ending earlier than one month after the date of service of the first mentioned instrument, setting out any matters that the lessee or the other person, as the case may be, wishes to be considered.

(2) Where—

(a) an instrument under subsection (1) is served on a lessee;

and

(b) the lessee does not, within the period referred to in subsection (1) *(e)*, serve on the Minister an instrument setting out matters that the lessee wishes to be considered or the Minister, after consideration of matters set out in an instrument served on the Minister by the lessee within that period, determines that the lease should be cancelled,

the Minister shall, by instrument in writing served on the lessee, cancel the lease.

(3) The cancellation of a lease under subsection (2) has effect—

(a) in a case to which paragraph *(b)* does not apply—at the end of the period of 12 months commencing on the date of service of the instrument of cancellation;

or

(b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period referred to in paragraph *(a)*—when the Minister grants, or refuses to grant, the licence or when the application lapses, whichever first happens.

(4) Where a lease is cancelled under subsection (2), the lease shall be deemed to continue in force in all respects until the cancellation has effect in accordance with subsection (3).

Application for renewal of lease.

37f. (1) A lessee may, from time to time, make an application to the Minister for the renewal of the lease.

(2) An application for the renewal of a lease—

(a) shall be in accordance with an approved form;

(b) subject to subsection (3), shall be made in an approved manner not less than 6 months or more than 12 months before the day on which the lease ceases to be in force;

(c) shall be accompanied by particulars of—

(i) the proposals of the applicant for work and expenditure in respect of the lease area;

and

(ii) particulars of the commercial viability of recovery of petroleum from the lease at the time of the application and particulars of the possible future commercial viability of recovery of petroleum from the lease area;

and

(d) shall be accompanied by a fee of $600.

(3) The Minister may, for reasons that the Minister thinks sufficient, receive an application for the renewal of the lease less than 6 months before, but not in any case after, the day on which the lease ceases to be in force.

(4) Where a lessee makes an application for the renewal of a lease, the Minister may, at any time, by instrument in writing served on the lessee, require the lessee to furnish, within the time specified in the instrument, further information in writing in connection with the application.

Grant or refusal of renewal of lease.

37g. (1) Where—

(a) a lessee makes an application for the renewal of a lease;

(b) the applicant has furnished any further information as and when required by the Minister under section 37f (4);

and

(c) the Minister is satisfied that recovery of petroleum from the lease area—

(i) is not, at the time of the application, commercially viable;

and

(ii) is likely to become commercially viable within the period of 15 years after that time,

the Minister—

(d) shall, if the lessee has complied with the conditions to which the lease is subject and with the provisions of this Part and of the regulations;

or

(e) may, if the lessee has not so complied but the Minister is satisfied that special circumstances exist that justify the granting of the renewal of the lease,

inform the lessee, by instrument in writing served on the lessee, that the Minister is prepared to grant to the lessee the renewal of the lease and that the lessee will be required to lodge a security for compliance with the conditions to which the lease, if the renewal is granted, will from time to time be subject and with the provisions of this Part and of the regulations.

(2) Subject to subsection (3), where—

(a) a lessee makes an application for the renewal of a lease;

and

(b) either—

(i) the applicant has not furnished any further information as and when required by the Minister under section 37f (4);

(ii) the Minister is not satisfied as to the matters referred to in subsection (1) *(c)*;

or

(iii) the lessee has not complied with the conditions to which the lease is subject and with the provisions of this Part and of the regulations and the Minister is not satisfied that special circumstances exist that justify the granting of the renewal of the lease,

the Minister shall, by instrument in writing served on the lessee, refuse to grant the renewal of the lease.

(3) The Minister shall not refuse to grant the renewal of the lease unless—

(a) the Minister has, by instrument in writing served on the lessee, given not less than one month's notice of his or her intention to refuse to grant the renewal of the lease;

(b) the Minister has served a copy of the instrument on such other persons, if any, as he or she thinks fit;

(c) the Minister has, in the instrument—

(i) given particulars of the reasons for the intention;

and

(ii) specified a date on or before which the lessee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that the lessee wishes to be considered;

and

(d) the Minister has taken into account any matters so submitted on or before the specified date by the lessee or by a person on whom a copy of the first mentioned instrument has been served.

(4) An instrument referred to in subsection (1) shall contain—

(a) a summary of the conditions to which the lease, on the grant of the renewal, is to be subject;

and

(b) a statement to the effect that the application will lapse if the lessee does not make a request under subsection (6) and lodge with the Minister the security referred to in the instrument.

(5) An instrument under subsection (2) shall, where the Minister refuses to grant the renewal of a lease by reason only that he or she is not satisfied as to the matter referred to in subsection (1) *(c)* (i), contain a statement to the effect that the lessee may, within the period of 12 months after the date of service of the instrument, make an application for a licence in respect of one or more of the blocks comprised in the lease.

(6) A lessee on whom there has been served an instrument under subsection (1) may, within a period of one month after the date of service of the instrument on the lessee—

(a) by instrument in writing served on the Minister, request the Minister to grant the lessee the renewal of the lease;

and

(b) lodge with the Minister the security referred to in the first mentioned instrument.

(7) Where a lessee on whom there has been served an instrument under subsection (1)—

(a) has made a request under subsection (6);

and

(b) has lodged with the Minister the security referred to in the instrument,

within the period referred to in subsection (6), the Minister shall grant to the lessee the renewal of the lease.

(8) Where a lessee on whom there has been served an instrument under subsection (1)—

(a) has not made a request under subsection (6);

or

(b) has not lodged with the Minister the security referred to in the instrument,

within the period referred to in subsection (6), the application lapses upon the expiration of that period.

(9) Where—

(a) an application for the renewal of a lease has been made;

and

(b) the lease expires—

(i) before the Minister grants, or refuses to grant, the renewal of the lease;

or

(ii) before the application lapses as provided by subsection (8),

the lease shall be deemed to continue in force in all respects—

(c) until the Minister grants, or refuses to grant, the renewal of the lease;

or

(d) until the application so lapses,

whichever first happens.

(10) Where the Minister refuses to grant the renewal of a lease by reason only that the Minister is not satisfied as to the matter referred to in subsection (1) *(c)* (i), the lease shall be deemed to continue in force in all respects—

(a) in a case to which paragraph *(b)* does not apply—until 12 months after the date of service of the instrument under subsection (2);

or

(b) in a case where the lessee makes an application for a licence in respect of one or more of the blocks comprised in the lease within the period of 12 months after the date referred to in paragraph *(a)*—until the Minister grants, or refuses to grant, the licence or until the application lapses, whichever first happens.

Conditions of lease.

37h. (1) A lease may be granted subject to such conditions as the Minister thinks fit and are specified in the lease.

(2) The conditions referred to in subsection (1) may include conditions with respect to work to be carried out by the lessee in or in relation to the lease area during the term of the lease, or amounts to be expended by the lessee in the carrying out of such work, or conditions with respect to both of those matters, including conditions requiring the lessee to comply with directions given in accordance with the lease concerning those matters.

(3) A lease shall be deemed to contain—

(a) a condition that the lessee will comply with the provisions of this Act;

and

(b) a condition that the lessee will, within the period of 3 months after the receipt of a written notice from the Minister requesting the lessee to do so or within such further period as the Minister, on application in writing served on the Minister before the end of the first mentioned period, allows, re-evaluate the commercial viability of petroleum production in the lease area (otherwise than by the drilling of wells) and inform the Minister in writing of the results of the re-evaluation.

(4) Where a lessee has complied with 2 notices of the kind referred to in paragraph (3) *(b)* during the term of the lease, the Minister shall not give to the lessee during that term a further notice of that kind.

Discovery of petroleum to be notified.

37j. (1) Where petroleum is discovered in a lease area, the lessee—

(a) shall forthwith inform the Minister of the discovery;

and

(b) shall, within a period of 3 days after the date of the discovery, furnish to the Minister particulars in writing of the discovery.

(2) Where petroleum is discovered in a lease area, the Minister may, from time to time, by instrument in writing served on the lessee, direct the lessee to furnish to the Minister, within the period specified in the instrument, particulars in writing of any one or more of the following:

(a) the chemical composition and physical properties of the petroleum;

(b) the nature of the subsoil in which the petroleum occurs;

(c) any other matters relating to the discovery that are specified by the Minister in the instrument.

(3) A person to whom a direction is given under subsection (2) shall comply with the direction.

Penalty: $10 000.

Directions by Minister on discovery of petroleum.

37k. (1) Where petroleum is discovered in a lease area, the Minister may, by instrument in writing served on the lessee, direct the lessee to do, within the period specified in the instrument, such things as the Minister thinks necessary and specifies in the instrument to determine the chemical composition and physical properties of that petroleum and to determine the quantity of petroleum in the petroleum pool to which the discovery relates or, if part only of that petroleum pool is within the lease area, in such part of that petroleum pool as is within the lease area.

(2) A person to whom a direction is given under subsection (1) shall comply with the direction.

Penalty: $10 000.

Amendment of s. 39—Application by permittee for licence.

14. Section 39 of the principal Act is amended—

(a) by striking out from subsection (4) "The application period" and substituting "Subject to subsection (5), the application period";

and

(b) by inserting after subsection (4) the following subsection:

(5) Where—

(a) a permittee applies for the grant by the Minister of a licence in respect of a block or blocks in respect of which the permittee has applied for a lease under section 37a;

and

(b) an instrument refusing to grant the lease is served on the permittee pursuant to section 37b (2),

the application period is whichever of the following periods last expires:

(c) the period that is applicable under subsection (4);

(d) the period of 12 months after the day of service of the instrument.

15. The following section is inserted after section 39 of the principal Act: Insertion of new ss. 39a and 39b.

39a. (1) A lessee whose lease is in force may make an application to the Minister for the grant of a licence— Application for licence by lessee.

(a) where the lease is in respect of 9 blocks—in respect of 5 of those blocks;

(b) where the lease is in respect of 8 or 7 blocks—in respect of 4 of those blocks;

(c) where the lease is in respect of 6 or 5 blocks—in respect of 3 of those blocks;

(d) where the lease is in respect of 4 or 3 blocks—in respect of 2 of those blocks;

(e) where the lease is in respect of 2 blocks—in respect of one of those blocks;

or

(f) where the lease is in respect of one block—in respect of that block.

(2) At any time while a lease is in force, the lessee may, instead of making an application under subsection (1) in respect of the lessee's primary entitlement, make an application to the Minister for the grant of a licence in respect of a number of blocks that is less than the lessee's primary entitlement.

(3) Where a lessee makes an application under subsection (1) in respect of the lessee's primary entitlement, the lessee may, at any time while the lease concerned is in force, make an application to the Minister for the grant of a licence in respect of any of the other blocks forming part of the lease.

16. Section 40 of the principal Act is amended by striking out from subsection (1) "section 39" and substituting "section 39 or 39a". Amendment of s. 40— Application for licence.

17. Section 42 of the principal Act is amended— Amendment of s. 42— Notification as to grant of licence.

(a) by striking out from subsection (1) "section 39" and substituting "section 39 or 39a";

and

(b) by inserting in subsection (1) "as and when" after "information".

18. Section 43 of the principal Act is amended— Amendment of s. 43— Grant of licence.

(a) by inserting after "permittee" in subsection (3) "or lessee";

(b) by inserting after "permittee's" in paragraph *(b)* of subsection (3) "or lessee's";

and

(c) by striking out from subsection (5) "From and including the day on which a licence granted under this section has effect, the

permit" and substituting "On the day on which a licence granted under this section comes into force, the permit or lease".

Amendment of s. 44— Variation of licence area.

19. Section 44 of the principal Act is amended by striking out from subsection (2) "From and including the day from and including which" and substituting "On and from the day on and from which".

Amendment of s. 45— Determination of permit or lease as to block not taken up.

20. Section 45 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

(1a) Subject to subsection (2), where all applications made by a lessee under section 39a in respect of a block have lapsed, the lease is determined as to that block and the determination has effect upon the lapsing of the last of those applications.;

(b) by inserting after "permittee" in subsection (2) "or lessee";

(c) by inserting after "permit" in subsection (2) "or lease";

and

(d) by striking out subsection (3) and substituting the following subsections:

(3) Subject to subsection (4), where a block or blocks constituting or forming part of a location is or are no longer the subject of a permit or lease, the Minister shall, by instrument published in the *Gazette*—

(a) in a case where that block or those blocks constitutes or constitute that location—revoke the declaration made under section 36 (1) in respect of that location;

or

(b) in a case where that block or those blocks form part of that location—revoke the declaration made under section 36 (1) in respect of that location to the extent that it relates to that block or those blocks.

(4) Subsection (3) does not apply in relation to a block—

(a) in respect of which an application for the grant of a lease or licence has been made, being an application that has not lapsed and in relation to which a decision has not been made by the Minister;

or

(b) in respect of which a lease or licence is in force.

(5) Where a lease is granted in respect of a block or blocks forming part of a location, the Minister shall, by instrument published in the *Gazette*, revoke the declaration made under section 36 (1) to the extent that it relates to the block or blocks that is or are not within the lease area.

(6) Where—

(a) the Minister refuses to grant a lease in respect of a block or blocks constituting or forming part of a location;

and

(b) the reason, or one of the reasons, for the refusal is that the Minister is not satisfied as to the matter referred to in section 37b (1) *(c)* (ii),

the Minister shall, by instrument published in the *Gazette*, revoke the declaration made under section 36 (1) in respect of that location.

Amendment of s. 46—Application for licence in respect of surrendered, etc., blocks.

21. Section 46 of the principal Act is amended by inserting after "permit" in paragraph *(b)* of subsection (1) "or lease".

Amendment of s. 50—Grant of licences in respect of individual blocks.

22. Section 50 of the principal Act is amended by striking out from paragraph *(b)* of subsection (6) "from and including the day on which those licences have effect" and substituting "on and from the day on which those licences come into force".

Amendment of s. 52—Term of licence.

23. Section 52 of the principal Act is amended—

(a) by inserting in paragraphs *(a)* and *(b)* "or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day" after "the day on which the licence is granted";

and

(b) by inserting in paragraph *(c)* "(or, if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day)" after "the day on which the licence is granted".

Amendment of s. 53—Application for renewal of licence.

24. Section 53 of the principal Act is amended by striking out from paragraph *(b)* of subsection (2) and from subsection (3) "have effect" and substituting, in each case, "be in force".

Amendment of s. 57—Directions as to recovery of petroleum.

25. Section 57 of the principal Act is amended—

(a) by striking out subsections (3) and (4) and substituting the following subsections:

(3) Where petroleum is being recovered in a licence area, the Minister may, for reasons that the Minister thinks sufficient, by instrument in writing served on the licensee, direct the licensee to take all necessary and practicable steps to increase or reduce the rate at which petroleum is being recovered in the licence area or from a petroleum pool in the licence area to such rate as the Minister specifies in the instrument.

(4) Where the Minister is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under subsection (3), the Minister may, by instrument in writing served on the licensee, give to the licensee such directions as the Minister thinks necessary for or in relation to the increase or reduction of the rate at which

petroleum is being recovered in the licence area or from a petroleum pool in the licence area.

(5) Without limiting the matters that may be taken into account by the Minister in determining whether to give a direction under subsection (3) or (4), the Minister may take into account matters relating to the effects on South Australian revenue of the proposed direction, but the Minister shall not give a direction under subsection (3) or (4) if the direction would require action to be taken that is contrary to good oilfield practice.

Amendment of s. 58— Unit development.

26. Section 58 of the principal Act is amended—

(a) by striking out from subsection (2) "such an agreement does not have any force or effect unless it has been approved by the Minister" and substituting "nothing in this subsection derogates from the operation of section 80 (2)";

(b) by inserting in subsection (3) ", by instrument in writing served on the licensee" after "part of the petroleum pool";

(c) by striking out from subsection (3) "the agreement with him forthwith in accordance with section 80" and substituting "an application in accordance with section 80 for approval of any dealing to which the agreement relates";

(d) by striking out paragraph *(b)* of subsection (4) and substituting the following paragraph:

(b) the licensee enters into such an agreement but an application for approval of a dealing to which the agreement relates is not lodged with the Minister or, if an application is so lodged, the dealing is not approved under section 80,;

and

(e) by striking out subsection (10) and substituting the following subsection:

(10) In this section—

"dealing" means a dealing to which section 80 applies.

Amendment of s. 66— Term of pipeline licence.

27. Section 66 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) A pipeline licence comes into force on the day on which the pipeline licence is granted or, if a later day is specified in the pipeline licence as being the day on which the pipeline licence is to come into force, on that later day.

Amendment of s. 67— Application for renewal of pipeline licence.

28. Section 67 of the principal Act is amended by striking out from paragraph *(b)* of subsection (2) and from subsection (3) "have effect" and substituting, in each case, "be in force".

Insertion of new s. 73a.

29. The following section is inserted in Division V of Part III of the principal Act before section 74:

Interpretation.

73a. In this Division—

"title" means a permit, lease, licence, pipeline licence or access authority.

Amendment of s. 74—Register of certain instruments to be kept.

30. Section 74 of the principal Act is amended by striking out "permits, licences, pipeline licences and access authorities" and substituting "titles and special prospecting authorities".

Amendment of s. 75—Particulars to be entered in register.

31. Section 75 of the principal Act is amended—

(a) by striking out from subsection (1) "permit, licence, pipeline licence or access authority" wherever occurring and substituting, in each case, "title or special prospecting authority";

(b) by striking out from paragraph *(b)* of subsection (1) "permit or" and substituting "permit, lease or";

(c) by inserting in paragraph *(b)* of subsection (1) ", lease area" after "permit area";

(d) by inserting before "an access authority" in paragraph *(c)* of subsection (1) "a special prospecting authority or";

(e) by inserting before "access authority" second occurring in paragraph *(c)* of subsection (1) "special prospecting authority or";

(f) by striking out from paragraph *(a)* of subsection (2) "permit, licence, pipeline licence or access authority" and substituting "title or special prospecting authority";

(g) by striking out from subsection (3) "permit, licence, pipeline licence, access authority" and substituting "title, special prospecting authority";

(h) by striking out subsection (4);

and

(i) by striking out from subsection (5) "permit, licence, pipeline licence, access authority" and substituting "title, special prospecting authority".

Amendment of s. 76—Memorials to be entered of permits, etc., determined, etc.

32. (1) Section 76 of the principal Act is amended—

(a) by inserting in paragraphs *(a)* and *(b)* "or lease" after "permit";

(b) by inserting after paragraph *(a)* the following paragraph:

(aa) a permit ceases to be in force in respect of a block in respect of which a lease is granted;;

(c) by striking out from paragraph *(c)* "permit, licence, pipeline licence or access authority" and substituting "title or special prospecting authority".

Repeal of s. 77 and substitution of new section.

33. Section 77 of the principal Act is repealed and the following section is substituted:

Approval and registration of transfers.

77. (1) A transfer of a title is of no force until it has been approved by the Minister and an instrument of transfer is registered as provided by this section.

(2) Where it is desired that a title be transferred, one of the parties to the proposed transfer may make an application in writing to the Minister for approval of the transfer.

(3) An application for approval of a transfer of a title shall be accompanied by—

(a) an instrument of transfer in the prescribed form executed by the registered holder or, if there are 2 or more registered holders, by each registered holder and by the transferee or, if there are 2 or more transferees, by each transferee;

(b) in a case where the transferee or one or more of the transferees is not a registered holder or are not registered holders of the title, an instrument setting out—

(i) the technical qualifications of that transferee or those transferees;

(ii) details of the technical advice that is or will be available to that transferee or those transferees;

and

(iii) details of the financial resources that are or will be available to that transferee or those transferees;

and

(c) two copies of the application and of the instruments referred to in paragraphs *(a)* and *(b)*.

(4) The Minister shall not approve the transfer of a title unless the application was lodged with the Minister within 3 months after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer or within such longer period as the Minister, in special circumstances, allows.

(5) Where an application for approval of a transfer is made in accordance with this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.

(6) The Minister shall—

(a) consider each application for approval of the transfer of a title and determine whether to approve the transfer;

and

(b) in the case of a transfer of a permit, lease, licence or pipeline licence, determine whether approval of the transfer should be made subject to a security being lodged by the transferee or transferees for compliance with the provisions of this Act and of any conditions to which the permit, lease, licence or pipeline licence may, from time to time, be subject.

(7) Where an application for approval of the transfer of a title is made in accordance with this section, the Minister shall, by notice in writing served on the person who made the application, inform the person of the Minister's decision and shall set out in the notice details of any security required to be lodged by the transferee or transferees.

(8) Where—

(a) the Minister has served a notice on a person under subsection (7) stating that the transfer of a permit, lease, licence or pipeline licence will be approved subject to a security being lodged;

and

(b) that security is lodged with the Minister,

the Minister shall be deemed to have approved the transfer.

(9) Where the Minister approves the transfer of a title, the Minister shall forthwith endorse on the instrument of transfer and on one copy of the instrument a memorandum of approval and shall, on payment of the prescribed fee, enter in the register a memorandum of the transfer and the name of the transferee or of each transferee.

(10) Upon the entry in the register of a memorandum of the transfer of a title and of the name of the transferee or each transferee in accordance with subsection (9)—

(a) the transfer shall be deemed to be registered;

and

(b) the transferee becomes the registered holder, or the transferees become the registered holders, of the title.

(11) Where the Minister refuses to approve the transfer of a title, the Minister shall make a notation of the refusal in the register.

(12) Where a transfer is registered—

(a) the copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division;

and

(b) the instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval of the transfer.

(13) The mere execution of an instrument of transfer of a title creates no interest in the title.

34. Section 78 of the principal Act is amended— Amendment of s. 78— Entries in register on devolution of title, etc.

(a) by striking out from subsection (1) "permit, licence, pipeline licence or access authority" (first occurring) and substituting "particular title";

(b) by striking out from subsection (1) "permit, licence, pipeline licence or access authority" (second occurring) and substituting "title";

(c) by striking out from subsection (2) "permit, licence, pipeline licence or access authority" wherever occurring and substituting, in each case, "title";

and

(d) by inserting after subsection (2) the following subsection:

(3) Where a company that is the registered holder of a particular title has changed its name, it may apply in writing to the Minister to have its new name substituted for its previous name in the register in relation to that title and, if—

(a) the Minister is satisfied that the company has so changed its name;

and

(b) the company has paid a fee of $30,

the Minister shall make the necessary alterations in the register.

Repeal of ss. 79 and 80 and substitution of new sections.

35. (1) Sections 79 and 80 of the principal Act are repealed and the following sections are substituted:

Approval of dealings creating, etc., interests, etc., in existing titles.

80. (1) This section applies to a dealing that would, but for subsection (2), have one or more of the following effects:

(a) the creation or assignment of an interest in an existing title;

(b) the creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing title;

(c) the determining of the manner in which persons may exercise the rights conferred by, or comply with the obligations imposed by or the conditions of, an existing title (including the exercise of those rights or the compliance with those obligations or conditions under co-operative arrangements for the recovery of petroleum);

(d) the creation or assignment of—

(i) an interest in relation to an existing permit, lease or licence, being an interest known as an overriding royalty interest, a production payment, a net profits interest or a carried interest;

or

(ii) any other interest that is similar to an interest referred to in subparagraph (i), being an interest relating to petroleum produced from operations authorized by an existing permit, lease or licence or relating to revenue derived as a result of the carrying out of operations of that kind;

(e) the creation or assignment of an option (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs *(a)*, *(b)* *(c)* and *(d)*;

(f) the creation or assignment of a right (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs *(a)*, *(b)*, *(c)* and *(d)*;

(g) the alteration or termination of a dealing, being a dealing that has one or more of the effects referred to in paragraphs *(a)*, *(b)*, *(c)*, *(d)*, *(e)* and *(f)*,

but this section does not apply to a transfer to which section 77 applies.

(2) A dealing to which this section applies is of no force insofar as the dealing would, but for this subsection, have an effect of a kind referred to in subsection (1) in relation to a particular title until—

(a) the dealing, insofar as it relates to that title, has been approved by the Minister;

and

(b) an entry has been made in the register in relation to the dealing by the Minister in accordance with subsection (12).

(3) A party to a dealing to which this section applies may lodge with the Minister—

(a) in a case where the dealing relates to only one title, an application in writing for approval of the dealing;

or

(b) in any other case, a separate application in writing for approval of the dealing in relation to each title to which the dealing relates.

(4) An application under subsection (3) for approval of a dealing shall be accompanied by—

(a) the instrument evidencing the dealing or, if that instrument has already been lodged with the Minister for the purposes of another application, a copy of that instrument;

(b) an instrument setting out such particulars (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind;

and

(c) two copies of the application and of the instruments referred to in paragraphs *(a)* and *(b)*.

(5) Subject to subsection (6), the Minister shall not approve a dealing unless the application for approval of the dealing is lodged with the Minister within 3 months after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument or such longer period as the Minister, in special circumstances, allows.

(6) Where a dealing relating to a title was, immediately before the title came into existence, a dealing referred to in section 80a (1), the Minister shall not approve the dealing unless—

(a) a provisional application for approval of the dealing was lodged in accordance with section 80a (1);

or

(b) an application for approval of the dealing is lodged with the Minister in accordance with this section within 3 months after the day on which the title came into existence or such longer period as the Minister, in special circumstances, allows.

(7) Where a dealing to which this section applies forms a part of the issue of a series of debentures, all the dealings constituting the issue of that series of debentures shall, for the purposes of this section, be taken to be one dealing.

(8) Where a dealing to which this section applies (including a dealing referred to in subsection (7)) creates a charge over some or all of the assets of a body corporate, the person lodging the application for approval of the dealing shall be deemed to have complied with subsection (4) *(a)*, and with subsection (4) *(c)* insofar as that subsection requires 2 copies of the document referred to in subsection (4) *(a)* to accompany the application, if the person lodges with the application 3 copies of each document required to be lodged with the National Companies and Securities Commission relating to the creation of that charge pursuant to section 201 of the *Companies (South Australia) Code* or pursuant to the corresponding provision of a law of a State or Territory.

(9) On receipt of an application made under this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.

(10) The Minister may approve or refuse to approve a dealing to which this section applies insofar as the dealing relates to a particular title.

(11) The Minister shall, by notice in writing served on the person who made an application for approval of a dealing, inform the person of the decision of the Minister.

(12) If the Minister approves a dealing, the Minister shall endorse on the original instrument evidencing the dealing and on one copy of that instrument or, if the original instrument was not lodged with the application, on 2 of the copies of that instrument a memorandum of approval and, on payment of the prescribed fee make an entry of the approval of the dealing in the register on the memorial relating to, or on the copy of, the title in respect of which the approval is sought.

(13) Where an entry is made in the register in relation to a dealing in accordance with subsection (12)—

(a) one copy of an instrument evidencing the dealing endorsed with a memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division;

and

(b) the original instrument, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval shall be returned to the person who made the application for approval.

(14) Where the Minister refuses to approve a dealing, the Minister shall make a notation of the refusal in the register.

(15) In this section—

"charge" and "debenture" have the same respective meanings as they have for the purposes of section 201 of the *Companies (South Australia) Code.*

Approval of dealings in future interests, etc.

80a. (1) Where two or more persons enter into a dealing relating to a title that may come into existence in the future and that dealing would, if the title came into existence, become a dealing to which section 80 applies, a person who is a party to the dealing may, during the prescribed period in relation to the title, lodge with the Minister—

(a) in a case where the dealing relates to only one title that may come into existence in the future, a provisional application in writing for approval by the Minister of the dealing;

or

(b) in any other case, a separate provisional application in writing for approval by the Minister of the dealing in relation to each title that may come into existence in the future and to which the dealing relates.

(2) Sections 80 (4), (7) and (8) apply to a provisional application lodged under subsection (1) as if that provisional application were an application lodged under section 80 (3).

(3) Where—

(a) the title to which a dealing referred to in subsection (1) relates comes into existence;

and

(b) upon that title coming into existence, the dealing becomes a dealing to which section 80 applies,

the provisional application lodged under subsection (1) in relation to the dealing shall be treated as if it were an application lodged under section 80 (3) on the day on which that title came into existence.

(4) A reference in subsection (1) to the prescribed period, in relation to a title, is a reference to the period—

(a) commencing—

(i) in the case of a permit, lease, licence or pipeline licence—on the day of service of an instrument informing the applicant for the permit, lease, licence or pipeline licence that the Minister is prepared to grant the permit, lease, licence or pipeline licence;

or

(ii) in the case of an access authority—on the day on which the application for the grant of the access authority is made;

and

(b) ending on the day on which the title comes into existence.

36. Section 81 of the principal Act is amended— Amendment of s. 81—

(a) by striking out subsection (1) and substituting the following subsection: True consideration to be shown.

(1) A person who is a party to a transfer referred to in section 77, a dealing to which section 80 applies or a dealing

referred to in section 80a (1) shall not lodge with the Minister—

(a) an instrument of transfer;

(b) an instrument evidencing the dealing;

or

(c) an instrument of the kind referred to in section 80 (4) *(b)*,

that contains a statement relating to the consideration for the transfer or dealing, or to any other fact or circumstance affecting the amount of the fee payable in respect of the transfer or dealing, being a statement that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: $10 000.;

and

(b) by striking out "instrument" from subsection (2) and substituting "dealing".

Amendment of s. 82—Minister not concerned with certain matters.

37. Section 82 of the principal Act is amended—

(a) by striking out "such an instrument" and substituting "a transfer or dealing";

and

(b) by striking out "it" wherever occurring and substituting, in each case, "the transfer or dealing".

Amendment of s. 83—Power of Minister to require information as to dealings.

38. Section 83 of the principal Act is amended—

(a) by striking out from subsection (1) "an instrument for approval" and substituting "an application for approval of a transfer or dealing or a provisional application for approval of a dealing";

(b) by striking out from subsection (1) "the instrument, or the transaction to which the instrument relates," and substituting "the transfer or dealing";

and

(c) by inserting after subsection (1) the following subsections:

(1a) The Minister may require a person who is a party to a dealing approved by the Minister under section 80 to furnish to the Minister a statement in writing setting out such information concerning alterations in the interests or rights existing in relation to the title to which the approved dealing relates as the Minister considers necessary or advisable.

(1b) The Minister may require a person making an application under section 78 (1) or (3) or 86a (2) to furnish to the Minister in writing such information concerning the matter to which the application relates as the Minister considers necessary or advisable.

(1c) A person shall not fail or refuse to comply with a requirement given to the person under subsection (1), (1a) or (1b).

Amendment of s. 84—Production and inspection of documents.

39. Section 84 of the principal Act is amended—

(a) by striking out from subsection (1) "an instrument lodged with the Minister for approval under this Division or to the transaction to which such an instrument relates" and substituting "a transfer or dealing in relation to which approval is sought under this Division";

(b) by inserting after subsection (1) the following subsection:

(1a) The Minister may require any person to produce to the Minister or to make available for inspection by the Minister any documents in the possession or under the control of that person and relating to an application made to the Minister under section 78 (1) or (3) or 86a (2).;

and

(c) by striking out "subsection (1)" from subsection (2) and substituting "subsection (1) or (1a)".

Amendment of s. 85—Inspection of register and documents.

40. Section 85 of the principal Act is amended—

(a) by striking out from subsection (1) "Subject to subsection (2), the" and substituting "The";

(b) by striking out from subsection (1) "registered, or subject to inspection," and substituting "subject to inspection";

and

(c) by striking out subsection (2).

Insertion of new s. 86a.

41. The following section is inserted after section 86 of the principal Act:

Minister may make corrections to register.

86a. (1) The Minister may alter the register for the purposes of correcting a clerical error or an obvious defect in the register.

(2) Subject to subsection (3), the Minister may, on application being made in writing to the Minister by a person or of the Minister's own motion, make such entries in the register as the Minister considers appropriate for the purposes of ensuring that the register accurately records the interests and rights existing in relation to a title.

(3) Where the Minister proposes to make an entry in the register in accordance with subsection (2), the Minister shall cause to be published in the *Gazette* a notice—

(a) setting out the terms of the entry that the Minister proposes to make in the register;

and

(b) inviting interested persons to give to the Minister, by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, submissions in writing relating to the making of the entry.

(4) Where submissions are, in accordance with a notice under subsection (3), given to the Minister in relation to the proposed making of an entry in the register, the Minister shall—

(a) take those submissions into account before making an entry in the register;

and

(b) after making an entry in the register, cause to be published in the *Gazette* a notice setting out the terms of the entry.

Repeal of s. 91 and substitution of new section.

42. Section 91 of the principal Act is repealed and the following section is substituted:

Registration fees.

91. (1) Subject to this section, there is payable to the Minister in respect of an entry in the register of a memorandum of the transfer of a title under section 77 a fee at the rate of 1.5 per cent of—

(a) the value of the consideration for the transfer;

or

(b) the value of the title transferred, whichever is the greater or, if the amount of that fee is less than $300, a fee of $300.

(2) Where—

(a) a fee imposed by subsection (4) in respect of an entry of approval of a dealing, being a dealing pursuant to which the transfer of a title is agreed to, has been paid;

and

(b) but for this subsection, the amount of the fee imposed by subsection (1) in respect of the entry of a memorandum of the transfer of the title, being a transfer executed for the purpose of giving effect to the dealing referred to in paragraph *(a)*, would be greater than $300, the amount of the fee imposed by subsection (1) in respect of the entry of the memorandum of the transfer is $300.

(3) Where—

(a) the parties to a transfer of a title lodged for approval under section 77 satisfy the Minister that—

(i) those parties are related corporations within the meaning of the *Companies (South Australia) Code*;

(ii) the transfer was executed solely for the purpose of a reorganization of the corporations concerned or any of them or solely for the purpose of securing the better administration of the corporations concerned or any of them;

and

(iii) the transfer was not executed substantially for the purpose of avoiding or reducing the registration fees that would, but for this subsection, be pay-

able under subsection (1) in respect of the entry of a memorandum of the transfer;

and

(b) but for this subsection, the amount of the fee imposed by subsection (1) in respect of the entry of the memorandum of the transfer of the title would be more than $3 000,

the amount of the fee imposed by subsection (1) in respect of the entry of the memorandum of the transfer is $3 000.

(4) Subject to this section, there is payable to the Minister in respect of an entry in the register of the approval of a dealing under section 80 a fee at the rate of 1.5 per cent of—

(a) the value of the consideration for the dealing or, if the Minister approves the dealing in relation to another title or titles, an amount equal to the value of the consideration for the dealing divided by the number of titles in relation to which the dealing is approved;

or

(b) in a case where—

(i) the entry of approval relates to an interest in a licence or pipeline licence;

(ii) the value of the interest is greater than the amount applicable under paragraph *(a)*;

(iii) the dealing has an effect of the kind referred to in section 80 (1) *(a)*, *(b)* or *(d)*;

and

(iv) the Minister is satisfied that the dealing was not made pursuant to another dealing, being a dealing that relates to that title and in respect of an entry of approval of which a fee imposed by this subsection has been paid,

the value of the interest.

(5) Where—

(a) but for this subsection, the amount of the fee imposed by subsection (4) in relation to an entry of approval of a dealing would be less than $300;

or

(b) an approval under section 80 is given in respect of a dealing that is a dealing to which that section applies by reason only that the dealing creates, varies or terminates a charge over some or all of the assets of a body corporate,

the amount of the fee imposed by subsection (4) in respect of the entry of that approval is $300.

(6) Where—

(a) the parties to a dealing lodged for approval under section 80 satisfy the Minister that—

(i) those parties are related corporations within the meaning of the *Companies (South Australia) Code*;

(ii) the dealing was entered into solely for the purpose of a reorganization of the corporations concerned or any of them or solely for the purpose of securing the better administration of the corporations concerned or any of them;

and

(iii) the dealing was not entered into substantially for the purpose of avoiding or reducing the registration fees that would, but for this subsection, be payable under subsection (4) in respect of the entry of approval of the dealing;

and

(b) but for this subsection, the amount of the fee imposed by subsection (4) in relation to the entry of approval of the dealing would be more than $3 000,

the amount of the fee imposed by subsection (4) in respect of the entry of approval of that dealing is $3 000.

(7) For the purposes of calculating the amount of the fee imposed by subsection (4) in respect of an entry of approval of a dealing, the value, as determined by the Minister, of any exploration works to be carried out pursuant to the dealing, being works that were, at the time when the application for approval of the dealing was lodged, required or permitted to be carried out by or under the relevant title, shall be deducted from the value of the consideration for the dealing or from the value of the interest in the relevant licence as the case requires.

Amendment of s. 92—Exemption from stamp duty.

43. Section 92 of the principal Act is amended by inserting "lease," after "permit," wherever occurring.

Amendment of s. 93—Notice of grants of permits, etc., to be published.

44. Section 93 of the principal Act is amended—

(a) by inserting in paragraph *(a)* "lease," after "permit,";

(b) by inserting in paragraph *(c)* ", lease" after "permit" first occurring;

(c) by inserting in paragraph *(c)* ", lease area" after "permit area";

(d) by inserting in paragraph *(d)* "or lease" after "permit";

and

(e) by inserting in paragraph *(g)* "lease," after "permit,".

Amendment of s. 94—Date of effect of surrender, etc., of permits, etc.

45. Section 94 of the principal Act is amended—

(a) by striking out subsection (1);

(b) by inserting in subsection (2) ", lease" after "permit" first occurring;

(c) by inserting in subsection (2) ", lease area" after "permit area";

and

(d) by striking out from subsections (2), (3) and (4) "from and including" and substituting, in each case, "on and from".

Amendment of s. 95— Commencement of works.

46. Section 95 of the principal Act is amended—

(a) by inserting in subsection (1) "lease," after "permit," wherever occurring;

(b) by inserting in subsection (1) "lessee," after "permittee,";

(c) by striking out from subsection (1) and from paragraph *(b)* of subsection (2) "has effect" and substituting, in each case, "comes into force";

(d) by inserting in subsection (2) "lessee," after "permittee,";

and

(e) by inserting in subsection (2) "lease," after "permit," wherever occurring.

Amendment of s. 96— Work practices.

47. Section 96 of the principal Act is amended—

(a) by inserting after "permittee" wherever occurring in subsections (1) and (2) ", lessee";

(b) by inserting after "permit area" wherever occurring in subsections (1) and (2) ", lease area";

(c) by inserting in paragraph *(c)* of subsection (2) ", lease" after "permit";

and

(d) by inserting in subsection (6) "lease," after "permit," wherever occurring.

Amendment of s. 97— Maintenance, etc., of property.

48. Section 97 of the principal Act is amended—

(a) by inserting in the definition of "operator" in subsection (1) "lessee," after "permittee,";

(b) by inserting in paragraph *(a)* of the definition of "the operations area" in subsection (1) ", lessee" after "permittee";

and

(c) by inserting in paragraph *(a)* of the definition of "the operations area" in subsection (1) ", lease area" after "permit area";

Amendment of s. 99— Drilling near boundaries.

49. Section 99 of the principal Act is amended—

(a) by inserting in subsections (1) and (2) ", lessee" after "permittee" wherever occurring;

and

(b) by inserting in subsection (1) ", lease area" after "permit area";

Amendment of s. 100— Directions.

50. (1) Section 100 of the principal Act is amended—

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) The Minister may, by instrument in writing served on the registered holder of a permit, lease, licence, pipeline licence, special prospecting authority or access authority, give to the registered holder a direction as to any matter with respect to which regulations may be made.

(2) A direction given under this section to a registered holder applies to the registered holder and may also be expressed to apply to—

(a) a specified class of persons, being a class constituted by or included in one or both of the following classes of persons:

(i) servants or agents of, or persons acting on behalf of, the registered holder;

(ii) persons performing work or services, whether directly or indirectly, for the registered holder;

or

(b) any person (not being a person to whom the direction applies otherwise than in accordance with this paragraph) who is in the adjacent area for any reason touching, concerning, arising out of or connected with the exploration of the sea-bed or subsoil of the adjacent area for petroleum or the exploitation of the natural resources, being petroleum, of that sea-bed or subsoil or is in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the adjacent area for a reason of that kind,

and where a direction so expressed is given, the direction shall be deemed to apply to each person included in that specified class or to each person who is in the adjacent area as mentioned in paragraph *(b)*, as the case may be.

(2a) Where a direction under this section applies to a registered holder and to a person referred to in paragraph (2) *(a)*, the registered holder shall cause a copy of the instrument by which the direction was given to be given to that other person or to be exhibited at a prominent position at a place in the adjacent area frequented by that other person.

Penalty: $5 000.

(2b) Where a direction under this section applies to a registered holder and to a person referred to in paragraph (2) *(b)*, the registered holder shall cause a copy of the instrument by which the direction was given to be exhibited at a prominent position at a place in the adjacent area.

Penalty: $5 000.

(2c) Where a direction under this section applies to a registered holder and to a person referred to in paragraph (2) *(b)*, the Minister may, by notice in writing given to the registered holder, require the registered holder to cause to be

displayed at such places in the adjacent area, and in such manner, as are specified in the notice, copies of the instrument by which the direction was given, and the registered holder shall comply with that requirement.

Penalty: $5 000.;

(b) by striking out subsections (6) and (7) and substituting the following subsections:

(6) Section 151 (2a) and (2b) apply in relation to directions made under this section in like manner as that section applies to the regulations.

(7) A person who fails to comply with a direction in force under subsection (1) that applies to him or her is guilty of an offence.

Penalty: $10 000.

(8) Where—

(a) a direction given under this section applies to a registered holder and another person and that other person is prosecuted for an offence against subsection (7) in relation to the direction;

and

(b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,

the person shall not be convicted of the offence unless the prosecutor proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

51. Section 101 of the principal Act is amended— Amendment of s. 101— Compliance with directions.

(a) by striking out from subsections (1) and (3) "given to him" and substituting "given or applicable to the person";

(b) by inserting in subsection (2) "or was applicable" after "was given";

and

(c) by inserting after subsection (2) the following subsection:

(2a) Where—

(a) a direction given under section 100 applies to a permittee, lessee, licensee, pipeline licensee or the holder of a special prospecting authority or access authority and another person and an action under subsection (2) relating to the direction is brought against that other person;

and

(b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,

the person is not liable under subsection (2) unless the plaintiff proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

Amendment of s. 102—Exemption.

52. Section 102 of the principal Act is amended—

(a) by inserting in subsections (1) and (2) "lease," after "permit," wherever occurring;

(b) by striking out from subsection (1) "permit or licence" wherever occurring and substituting, in each case, "permit, lease or licence";

(c) by inserting in subsection (1) "lessee," after "permittee," wherever occurring;

(d) by inserting after paragraph *(g)* of subsection (1) the following paragraph:

(ga) a permittee, lessee or licensee consents to the making of a determination under section 7a.;

(e) by inserting in subsection (3) "or lessee" after "permittee" wherever occurring;

and

(f) by inserting in subsection (3) "or lease" after "permit" wherever occurring.

Amendment of s. 103—Surrender of permits, etc.

53. Section 103 of the principal Act is amended—

(a) by inserting in subsections (1) and (3) "lease," after "permit," wherever occurring;

(b) by inserting after paragraph *(a)* of subsection (1) the following paragraph:

(aa) in the case of a lease—as to all of the blocks in respect of which it is in force;;

and

(c) by inserting in paragraph *(a)* of subsection (5) ", lease" after "permit" wherever occurring.

Amendment of s. 104—Cancellation of permits, etc.

54. Section 104 of the principal Act is amended—

(a) by inserting "lessee," after "permittee," wherever occurring;

(b) by inserting in subsection (1) and in paragraph *(a)* of subsection (2) "lease," after "permit," wherever occurring;

(c) by inserting after paragraph *(e)* of subsection (1) the following paragraph:

(ea) in the case of a lease—cancel the lease as to all of the blocks in respect of which it is in force;;

and

(d) by inserting in subsection (2) ", or cancel a lease as to all of the blocks in respect of which it is in force," after "in force".

Amendment of s. 105—Cancellation of permit, etc., not affected by other provisions.

55. Section 105 of the principal Act is amended—

(a) by inserting in subsection (1) ", and a lease may be wholly cancelled," after "partly cancelled";

(b) by inserting in subsection (1) "lease," after "permit," secondly occurring;

(c) by inserting in subsection (2) "lease," after "permit," firstly and thirdly occurring;

(d) by inserting in subsection (3) ", and a lease may be wholly cancelled," after "partly cancelled";

(e) by inserting in subsection (3) "lease," after "permit," secondly occurring;

and

(f) by inserting in subsection (4) "lease," after "permit," firstly and thirdly occurring.

56. Section 106 of the principal Act is amended— Amendment of s. 106— Removal of property, etc., by permittee, etc.

(a) by inserting in subsection (1) "or a lease has been wholly determined, partly determined or wholly cancelled or has expired" after "expired";

(b) by inserting in subsections (1) and (2) "lessee," after "permittee," wherever occurring;

(c) by inserting in paragraph *(a)* of subsection (1), subsection (2) and paragraph *(b)* of subsection (3) "lease," after "permit," wherever occurring;

and

(d) by inserting in paragraph *(a)* of subsection (2) "lease area," after "permit area,".

57. Section 107 of the principal Act is amended— Amendment of s. 107— Removal of property, etc., by Minister.

(a) by inserting "or a lease has been wholly determined, partly determined or wholly cancelled or has expired," after "expired,";

(b) by inserting in paragraph *(b)* "lease," after "permit,".

58. Section 110 of the principal Act is amended— Amendment of s. 110— Special prospecting authorities.

(a) by striking out subsection (1) and substituting the following subsection:

(1) A person may make an application to the Minister for the grant of a special prospecting authority in respect of a block or blocks in respect of which a permit, lease or licence is not in force.;

(b) by striking out from subsection (6) "has effect from and including" and substituting "comes into force on";

and

(c) by inserting after subsection (6) the following subsections:

(6a) A special prospecting authority is not capable of being transferred.

(6b) Where—

(a) a person holds a special prospecting authority in respect of a block;

and

(b) another special prospecting authority is granted to another person in respect of the block,

the Minister shall, by notice in writing served on each of those persons, inform each of them of—

(c) the petroleum exploration operations authorized by the special prospecting authority granted to the other person;

and

(d) the conditions to which the special prospecting authority granted to the other person is subject.

Amendment of s. 111— Access authorities.

59. Section 111 of the principal Act is amended—

(a) by inserting in subsection (1) ", lessee" after "permittee";

(b) by inserting in subsection (1) and paragraph *(b)* of subsection (8) ", lease area" after "permit area" wherever occurring;

(c) by inserting after subsection (1) the following subsection:

(1a) A holder of a Commonwealth title or a State title may make an application to the Minister for the grant of an access authority to enable the holder to carry on, in a part of the adjacent area, petroleum exploration operations or operations related to the recovery of petroleum in or from the area to which that Commonwealth or State title relates.;

(d) by striking out from paragraph *(a)* of subsection (3) "a permittee or licensee" and substituting "a permittee, lessee, licensee or holder of a Commonwealth or State title";

(e) by inserting in subsections (4) and (11) ", lease" after "permit" wherever occurring;

(f) by striking out from subsection (7) "has effect from and including" and substituting "comes into force on";

and

(g) by inserting after subsection (12) the following subsection:

(13) In this section—

"Commonwealth title" means an authority, however described, under a law of the Commonwealth, to explore for, or to recover, petroleum:

"State title" means an authority, however described, under a law of Victoria or Western Australia to explore for, or to recover petroleum.

Amendment of s. 112— Sale of Property.

60. Section 112 of the principal Act is amended by inserting in paragraph *(b)* of subsection (3) "lessee," after "permittee,".

Amendment of s. 113— Securities.

61. Section 113 of the principal Act is amended by inserting in subparagraph (i) of paragraph *(a)* of subsection (1) "or Division IIA" after "Division II".

Amendment of s. 117— Release of information.

62. Section 117 of the principal Act is amended—

(a) by striking out paragraph *(a)* of subsection (1) and substituting the following paragraph:

(a) any information contained in a document to which this section applies that has been furnished to the Minister;;

(b) by striking out subsection (2) and substituting the following subsections:

(1b) The Minister may, at any time after the grant or renewal, or refusal to grant or renew, a permit, lease, licence, pipeline licence, access authority or special prospecting authority—

(a) make publicly known;

or

(b) on request by a person and, if the Minister so requires, on payment of a fee of $15 per day, make available to that person,

any information contained in, or accompanying, the application for the grant or renewal, as the case may be, but not including—

(c) information of a kind referred to in subsection (2) or (5a);

or

(d) particulars of—

(i) the technical qualifications of the applicant and of the employees of the applicant;

(ii) the technical advice available to the applicant;

or

(iii) the financial resources available to the applicant.

(2) The Minister may, at any time after the relevant day—

(a) make publicly known;

or

(b) on request by a person and, if the Minister so requires, on payment of a fee of $15 per day, make available to that person,

any information contained in a document to which this section applies that has been furnished to the Minister, being information that relates to the sea-bed or subsoil, or to petroleum, in a block, but not including any matter contained in a document to which this section applies that, in the opinion of the Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on, any such information.;

(c) by striking out subsection (4) and substituting the following subsection:

(4) For the purposes of subsections (2) and (3)—

(a) where—

(i) a permit or lease is in force in respect of the block;

and

(ii) the document, core, cutting or sample was furnished to the Minister during the period during which any of the following were in force in respect of the block:

(A) the permit or lease;

(B) in a case where a lease is in force in respect of the block—the permit that ceased to be in force in respect of the block by virtue of section 37b (7) on the day on which the lease came into force,

the relevant day is the day on which the period of 2 years that commenced on the day on which the document, core, cutting or sample was furnished to the Minister expires;

(b) where—

(i) a licence is in force in respect of the block;

and

(ii) the document, core, cutting or sample was furnished to the Minister during the period during which any of the following were in force in respect of the block:

(A) the licence;

(B) the permit or lease that ceased to be in force in respect of the block by virtue of section 43 (5) on the day on which the licence came into force,

the relevant day is the day on which the period of 12 months that commenced on the day on which the document, core, cutting or sample was furnished to the Minister expires;

(c) where the document, core, cutting or sample was furnished to the Minister during a period during which a permit, lease or licence was in force in respect of the block and—

(i) the permit, lease or licence is surrendered, cancelled or determined as to the block;

or

(ii) the permit, lease or licence expires but is not renewed in respect of the block,

the relevant day is the day on which the permit, lease or licence is so surrendered, cancelled or determined or expires, as the case may be, whether another permit, lease or licence is subsequently in force in respect of the block or not;

and

(d) where the document, core, cutting or sample was furnished to the Minister during the period during which a permit, lease or licence was not in force in respect of the block, the relevant day is such day as the Minister determines, being a day earlier than the day on which the period of 2 years that commenced on the day on which the document, core, cutting or sample was furnished to the Minister expires.;

(d) by striking out from paragraph *(a)* of subsection (5) "report, return, other";

(e) by inserting in paragraph *(a)* of subsection (5) ", lease" after "permit" wherever occurring;

(f) by inserting in paragraph *(b)* of subsection (5) "lessee," after "permittee,";

(g) by inserting in paragraph *(b)* of subsection (5) "lease," after "permit," wherever occurring;

(h) by striking out from subparagraph (i) of paragraph *(b)* of subsection (5) "report, return or other";

(i) by inserting after subsection (5) the following subsections:

(5a) Subject to subsection (5f), the Minister may, at any time after the end of the period of 5 years after a document to which this section applies was furnished to the Minister—

(a) make publicly known;

or

(b) on request by a person and, if the Minister so requires, on payment of a fee of $15 per day, make available to that person,

any information contained in the document, being information that relates to the sea-bed or subsoil or to petroleum, in a block, and that, in the opinion of the Minister, is a conclusion drawn, in whole or in part, from, or an opinion based, in whole or in part, on any information contained in a document to which this section applies that has been furnished to the Minister under subsection (1).

(5b) Before the Minister makes available or publicly known any information pursuant to subsection (5a), the Minister shall—

(a) cause to be published in the *Gazette* a notice—

(i) stating that the Minister proposes to make the information available or publicly known;

(ii) inviting interested persons to give to the Minister, by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, a notice objecting to the whole or any part of the information being made available or publicly known;

and

(iii) stating that, if a person does not make an objection in accordance with the invitation, the person will be taken to have consented to the information being made available or publicly known;

and

(b) if it is practicable to do so—cause a copy of the notice so published in the *Gazette* to be served on the person who furnished the document containing the information.

(5c) There shall be set out in the notice of objection the reasons for making the objection.

(5d) A person is not entitled to make an objection to information being made available or publicly known except on the grounds that to do so would disclose—

(a) a trade secret;

or

(b) any other information the disclosure of which would, or could reasonably be expected to, adversely affect the person in respect of the lawful business, commercial or financial affairs of the person.

(5e) Where a person makes an objection to the Minister in accordance with such an invitation, the Minister shall, within 45 days after the receipt of the notice of objection, consider the objection, and may either disallow it, or allow it in whole or in part, and shall cause to be served on the person written notice of the decision on the objection.

(5f) The Minister shall not make available or make publicly known any information pursuant to subsection (5a) if there is in force an objection made in relation to the information being made available or publicly known but, where such an objection is in force, nothing in this section shall be taken to preclude a further invitation under subsection (5b) being made in relation to the information.;

(j) by striking out from paragraph *(a)* of subsection (6) "report, return or other document referred to in any of those provisions" and substituting "document to which this section applies";

and

(k) by inserting after subsection (6) the following subsection:

(6a) This section applies to the following documents:

(a) an application made to the Minister under this Act or a document accompanying such an application;

(b) a report, return or other document relating to a block that has been furnished to the Minister under this Act.

Amendment of s. 119—Discovery and use of water.

63. Section 119 of the principal Act is amended by striking out "or in a licence area, the permittee" and substituting ", a lease area or a licence area, the permittee, lessee".

Amendment of s. 120—Survey of wells, etc.

64. Section 120 of the principal Act is amended by inserting ", lessee" after "permittee" wherever occurring.

Amendment of s. 121—Records, etc., to be kept.

65. Section 121 of the principal Act is amended by inserting in subsection (1) "lease," after "permit,".

Amendment of s. 123—Interference with other rights.

66. Section 123 of the principal Act is amended by inserting "lease," after "permit,".

Amendment of s. 126—Property in petroleum.

67. Section 126 of the principal Act is amended—

(a) by inserting ", lessee" after "permittee" wherever occurring;

and

(b) by inserting ", lease area" after "permit area".

Amendment of s. 127—Suspension of right conferred by permit.

68. Section 127 of the principal Act is amended—

(a) by inserting "or lessee" after "permittee" wherever occurring;

and

(b) by inserting "or lease" after "permit" wherever occurring.

Amendment of s. 128—Certain payments to be made by State to Commonwealth.

69. Section 128 of the principal Act is amended—

(a) by inserting ", lessee" after "permittee" wherever occurring;

and

(b) by inserting ", lease" after "permit".

Amendment of s. 134—Disposal of forfeited goods.

70. Section 134 of the principal Act is amended by striking out "132" and substituting "133".

Insertion of new s. 137a.

71. The following section is inserted in Division VI of Part III of the principal Act after section 137:

Service of documents on two or more permittees, etc.

137a. (1) Where there are two or more registered holders of a title or special prospecting authority, those registered holders may, by notice in writing signed by each of them and served on the Minister,

nominate one of the registered holders as being the person on whom documents relating to the title or special prospecting authority that are required or permitted by this Act to be served may be served.

(2) Subject to subsections (3) and (4), where—

(a) a document relating to a title or special prospecting authority is required or permitted by this Act to be served on the registered holder;

(b) there are two or more registered holders of the title or special prospecting authority;

and

(c) the document is served on a person in respect of whom a nomination under subsection (1) is in force in relation to the title or special prospecting authority,

the document shall be deemed to have been served on each of those registered holders.

(3) Where—

(a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority;

and

(b) one of the registered holders of the title or special prospecting authority, by notice in writing served on the Minister, revokes that nomination,

that nomination ceases to be in force.

(4) Where—

(a) a person has been nominated under subsection (1) in relation to a title or special prospecting authority;

and

(b) the person so nominated ceases to be one of the registered holders of the title or special prospecting authority,

that nomination ceases to be in force.

(5) In this section, "title" means a permit, lease, licence, pipeline licence or access authority.

Insertion of new Division VIA in Part III.

72. The following Division is inserted into Part III of the principal Act after Division VI:

DIVISION VIA—POWERS OF AUTHORIZED PERSONS

Interpretation.

137b. (1) In this Division, unless the contrary intention appears—

"authorized person" means—

(a) a member of the South Australian police force;

or

(b) a person, or a person included in a class of persons, authorized to perform duties under this Division in accordance with subsection (2):

"exempt vessel", in relation to a safety zone, means a vessel—

(a) that is excluded from the operation of section 118 in relation to that safety zone by virtue of the instrument establishing the safety zone;

or

(b) in respect of which there is in force a consent in writing of the Minister under section 118 (1) in relation to that safety zone:

"Government vessel" means a vessel that is beneficially owned by, or a vessel the whole possession and control of which is for the time being vested in, South Australia, another State, the Commonwealth, or a Territory of the Commonwealth or an authority of South Australia, another State, the Commonwealth or a Territory of the Commonwealth:

"master", in relation to a vessel, means the person having command or charge of the vessel:

"relevant vessel" means a vessel—

(a) that is registered under the *Shipping Registration Act* 1981 of the Commonwealth and the gross tonnage of which specified in the certificate of registration of the vessel exceeds 200;

(b) that is not registered under the *Shipping Registration Act* 1981 of the Commonwealth but is permitted to be registered under that Act (other than a vessel that, under the law of another country, is entitled to fly the flag of that country and is flying that flag), being a vessel the tonnage length of which is equal to or exceeds 24 metres;

or

(c) not being a vessel to which paragraph *(a)* or *(b)* applies, that is in the adjacent area for the purpose of exploring the sea-bed or subsoil of the adjacent area for petroleum or minerals or for the purpose of exploiting the natural resources, being petroleum or minerals, of that sea-bed or subsoil,

but does not include a Government vessel:

"safety zone" means an area that is a safety zone for the purposes of section 118.

(2) The Minister may, by notice published in the *Gazette*, authorize a person, or a person included in a specified class of persons, to perform duties under this Division.

(3) The reference in the definition of "Government vessel" in subsection (1) to an authority of South Australia, another State, the Commonwealth or a Territory of the Commonwealth shall be read as a reference to a body corporate established for a public purpose by or under a law of South Australia, another State, the Commonwealth or a Territory of the Commonwealth, as the case may be, other than—

(a) the Australian Shipping Commission;

(b) the Western Australian Coastal Shipping Commission;

(c) the Transport Commission established under the *Transport Act* 1938 of Tasmania;

or

(d) a body corporate that is declared by regulations made under the *Shipping Registration Act* 1981 of the Commonwealth not to be a Government authority for the purposes of that Act.

(4) For the purposes of this Division, the tonnage length of a ship shall be determined in the same manner as it is determined for the purposes of the *Shipping Registration Act* 1981 of the Commonwealth.

Powers of authorized persons.

137c. (1) Subject to subsection (3), an authorized person may—

(a) board a vessel that the person has reasonable grounds to believe has been used, is being used or is about to be used in contravention of section 118;

(b) where the person has boarded a vessel in the exercise of powers under paragraph *(a)*—

(i) require any person on board the vessel to answer questions relating to the vessel or to the movements of the vessel;

(ii) require the master of the vessel to state whether there is in force in respect of the vessel a consent under section 118 (1) and, if so, to produce the consent;

(iii) if the vessel is registered under the *Shipping Registration Act* 1981 of the Commonwealth—require the master of the vessel to produce the certificate of registration of the vessel;

or

(iv) search the vessel for any documents relating to the vessel or to the movements of the vessel;

(c) require the master of a vessel, being a vessel that is in a safety zone and that is not an exempt vessel in relation to the safety zone, to take the vessel outside the safety zone;

(d) require the master of a disabled vessel—

(i) that is in a safety zone;

or

(ii) that is, or that the authorized person has reasonable grounds to believe is, a relevant vessel and that the person has reasonable grounds to believe is likely to cause damage to any well, pipeline, structure or equipment in the safety zone,

to permit the vessel to be towed away from the safety zone or to accept the giving of such other assistance to the vessel as the person considers necessary;

or

(e) detain a vessel that the person has reasonable grounds to believe has been used in contravention of section 118.

(2) A person shall not—

(a) fail to facilitate by all reasonable means the boarding of a vessel by an authorized person pursuant to subsection (1);

(b) refuse to allow a search that is authorized under subsection (1) to be made by an authorized person;

(c) refuse or neglect to comply with a requirement made by an authorized person under subsection (1);

(d) when an authorized person requires the person to give information, pursuant to the powers of the authorized person under subsection (1)—give information that is, to the knowledge of the person, false or misleading in a material particular;

or

(e) resist or obstruct an authorized person who is acting pursuant to subsection (1).

Penalty: $5 000.

(3) The powers of an authorized person in relation to a vessel under subsection (1) *(a)*, *(b)* and *(e)* shall not be exercised except—

(a) pursuant to a warrant issued under section 137d;

(b) after obtaining the consent of the master of the vessel;

or

(c) in circumstances of seriousness and urgency, in accordance with section 137e.

Search warrants.

137d. (1) Where an information on oath is laid before a magistrate alleging that there are reasonable grounds to believe that a vessel has been used, is being used or is about to be used in contravention of section 118, and the information sets out those grounds and identifies the vessel, a magistrate may issue a warrant authorizing an authorized person named in the warrant, with such assistance as the authorized person thinks necessary, to exercise all or any of the powers referred to in section 137c (1) *(a)*, *(b)* and *(e)* in relation to that vessel.

(2) A magistrate shall not issue a warrant under subsection (1) unless—

(a) the informant or some other person has given to the magistrate either orally or by affidavit such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought;

and

(b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) A warrant shall—

(a) specify the purpose for which the warrant is issued;

(b) set out a description of the vessel in relation to which the warrant is issued;

and

(c) specify a day, not being later than 7 days after the day on which the warrant is issued, as being the day on which the warrant ceases to have effect.

(4) In this section—

"magistrate" includes a justice of the peace.

Exercise of powers in serious circumstances.

137e. An authorized person may exercise, in relation to a vessel, all or any of the powers referred to in section 137c (1) *(a)*, *(b)* and *(e)* where—

(a) the authorized person has reasonable grounds to believe that—

(i) the vessel has been used, is being used or is about to be used in contravention of section 118;

or

(ii) the exercise of those powers is necessary to prevent damage being caused to any well, pipeline, structure or equipment in a safety zone;

and

(b) the circumstances are of such a serious nature as to require and justify the immediate exercise of those powers without the authority of a warrant issued under section 137d.

Insertion of new s. 138a.

73. The following section is inserted after section 138 of the principal Act:

Lease fees.

138a. There is payable to the Minister by a lessee in respect of each year of the term of the lease a fee calculated at the rate of $4 500 for each of the blocks to which the lease relates at the commencement of that year.

Amendment of s. 141— Time for payment of fees.

74. Section 141 of the principal Act is amended—

(a) by inserting "138a," after "138,";

and

(b) by inserting "lease," after "permit," wherever occurring.

Amendment of s. 142— Royalty.

75. Section 142 of the principal Act is amended—

(a) by inserting in subsection (1) ", lessee" after "permittee" wherever occurring;

(b) by inserting in subsection (1) ", lease area" after "permit area";

and

(c) by inserting in subsections (2) and (8) ", lease" after "permit" wherever occurring.

Amendment of s. 144—Royalty not payable in certain cases.

76. Section 144 of the principal Act is amended by inserting ", lessee" after "permittee" wherever occurring.

Amendment of s. 145—Ascertainment of well-head.

77. Section 145 of the principal Act is amended by inserting ", lessee" after "permittee".

Amendment of s. 146—Ascertainment of value.

78. Section 146 of the principal Act is amended by inserting ", lessee" after "permittee".

Amendment of s. 147—Ascertainment of quantity of petroleum recovered.

79. Section 147 of the principal Act is amended by inserting ", lessee" after "permittee" wherever occurring.

Amendment of s. 149—Penalty for late payment.

80. Section 149 of the principal Act is amended by inserting "lessee," after "permittee,".

Amendment of s. 150—Fees and penalties debts due to the State.

81. Section 150 of the principal Act is amended by inserting "lessee," after "permittee,".

Amendment of s. 151—Regulations.

82. Section 151 of the principal Act is amended—

(a) by inserting after "permit" in paragraph *(h)* of subsection (2) ", lease";

(b) by inserting after "permit area" wherever occurring in paragraph *(i)* of subsection (2) ", lease area";

(c) by inserting after subsection (2) the following subsections:

(2a) The regulations may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a code of practice or standard contained in an instrument (including an instrument issued or made outside Australia), as in force or existing at the time when the regulations take effect or as in force or existing from time to time, being a code of practice or standard that is relevant to that matter.

(2b) Regulations under this section may prohibit the doing of an act or thing either unconditionally or subject to conditions, including conditions requiring the grant, as prescribed by the regulations, of the consent or approval of a person specified in the regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 5 of 1987

An Act to amend the Road Traffic Act, 1961.

[*Assented to 12 March 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Road Traffic Act Amendment Act, 1987".

(2) The Road Traffic Act, 1961, is in this Act referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Insertion of new heading and ss. 79a and 79b.

3. The following heading and sections are inserted after section 79 of the principal Act:

Photographic Detection Devices

Approval of apparatus as photographic detection devices.

79a. The Governor may, by regulation, approve apparatus of a specified kind as photographic detection devices.

Provisions applying where certain offences are detected by photographic detection devices.

79b. (1) In this section—

"photographic detection device" means an apparatus of a kind approved by the Governor as a photographic detection device:

"prescribed offence" means an offence against any of the following provisions:

(a) section 20 (4);

(b) section 46 (1);

(c) section 48;

(d) section 49 (1) *(a)*;

(e) section 49 (1) *(d)*;

(f) section 50 (1);

(g) section 53 (1);

or

(h) section 75 (1):

"registered owner" of a vehicle means—

(a) a person registered or recorded as the owner or an owner of the vehicle under the Motor Vehicles Act, 1959, or a similar law of the Commonwealth or another State or Territory of the Commonwealth;

or

(b) a person to whom a trader's plate, a permit or other authority has been issued under the Motor Vehicles Act, 1959, or a similar law of another State or Territory of the Commonwealth, by virtue of which the vehicle is permitted to be driven on roads.

(2) Where a vehicle appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of a prescribed offence, the registered owner of the vehicle is guilty of an offence against this section unless it is proved—

(a) that although the vehicle appears to have been involved in the commission of a prescribed offence, no such offence was in fact committed;

or

(b) (i) where the registered owner is a natural person—that the registered owner was not driving the vehicle at the time;

or

(ii) where the registered owner is a body corporate—

(A) that no officer or employee of the registered owner was driving the vehicle at the time;

or

(B) although an officer or employee of the registered owner was, according to information in the possession of the registered owner, driving at the time—that the registered owner has furnished to the Commissioner of Police, by statutory declaration made by an officer of the registered owner, the name of the officer or employee.

(3) Where there are two or more registered owners of the same vehicle—

(a) a prosecution for an offence against subsection (2) may be brought against one of the registered owners or against some or all of the registered owners jointly as co-defendants;

and

(b) if the case for the prosecution is proved and a defence is not established under subsection (2) *(a)*, the defendant or each of the defendants who does not establish a defence under subsection (2) *(b)* is liable to be found guilty of an offence against subsection (2).

(4) A prosecution must not be commenced for an offence against this section unless the registered owner has first been given a traffic infringement notice in respect of the offence and allowed the opportunity to expiate the offence in accordance with the Summary Offences Act, 1953.

(5) Where an offence against this section is alleged, a traffic infringement notice or summons in respect of that offence must be accompanied by a notice in the prescribed form containing—

(a) a statement that a copy of the photographic evidence on which the allegation is based may be viewed on application to the Commissioner of Police;

(b) a statement that the Commissioner of Police will, in relation to the question of withdrawal of the traffic infringement notice or complaint, give due consideration to any exculpatory evidence that is verified by statutory declaration and furnished to the Commissioner within a period specified in the notice;

and

(c) such other information or instructions as is prescribed.

(6) Where a prescribed offence is alleged and the allegation is based on photographic evidence obtained through the operation of a photographic detection device, a traffic infringement notice or summons in respect of the offence must be accompanied by a notice in the prescribed form stating that a copy of the photographic evidence may be viewed on application to the Commissioner of Police.

(7) Where a person is found guilty of, or expiates, a prescribed offence or an offence against this section, neither that person nor any other person is liable to be found guilty of, or to expiate, an offence against this section or a prescribed offence in relation to the same incident.

(8) A person convicted of an offence against this section is not, by reason of that conviction, liable to be disqualified from holding or obtaining a driver's licence.

(9) In proceedings for an offence against this section, a document produced by the prosecution and purporting to be signed by the Commissioner of Police, or any commissioned officer of police, and purporting to certify that the defendant had, before the prosecution was commenced, been given a traffic infringement notice in respect of the offence and allowed the opportunity to expiate the offence in accordance with the Summary Offences Act, 1953, shall be accepted as proof, in the absence of proof to the contrary, of the facts so certified.

(10) In proceedings for an offence against this section or proceedings for a prescribed offence—

(a) a photograph or series of photographs produced by the prosecution shall be admitted in evidence if—

(i) the photograph or each of the photographs was produced from an exposure taken by a photographic detection device;

and

(ii) the requirements of the regulations as to the operation and testing of photographic detection devices were complied with in connection with that use of the device,

and a denotation as to date, time and location that appears as part of such a photograph shall be accepted as proof, in the absence of proof to the contrary, of the date, time and location at which the exposure was taken;

(b) a document produced by the prosecution and purporting to be signed by the Commissioner of Police, or any commissioned officer of police, and purporting to certify—

(i) that a specified device used at a specified location during a specified period was a photographic detection device;

and

(ii) that the requirements of the regulations as to the operation and testing of photographic detection devices were complied with in connection with the use of that device during that period,

shall be accepted as proof, in the absence of proof to the contrary, of the facts so certified;

and

(c) where it is also certified in a document of a kind referred to in paragraph *(b)* that the device was designed and set to operate according to a specified system during that period, it shall be presumed, in the absence of proof to the contrary, that the device was designed and set to operate according to that system during that period and did, in fact, so operate.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 6 of 1987

An Act to amend the Coober Pedy (Local Government Extension) Act, 1981.

[*Assented to 19 March 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Coober Pedy (Local Government Extension) Act Amendment Act, 1987".

(2) The Coober Pedy (Local Government Extension) Act, 1981, is in this Act referred to as "the principal Act".

Repeal of s. 5 and substitution of new section.

2. Section 5 of the principal Act is repealed and the following section is substituted:

Service of members of the Committee of the Association.

5. Notwithstanding the provisions of the Local Government Act, 1934, a person who, since the commencement of this Act, has served for a period of at least 12 months—

(a) as a member of the Committee of Management of the Association;

or

(b) as a member of the Committee of Management of the Association and then as a member of the council,

is eligible to be a candidate for election to the office of mayor of the council.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

FISHERIES (GULF ST. VINCENT PRAWN FISHERY RATIONALIZATION) ACT, 1987

No. 7 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Transfer of licences
5. Cancellation of licences
6. Compensation
7. Acquisition of vessel and equipment
8. Money expended for the purposes of this Act to be recouped from remaining licensees
9. Minister may borrow money for the purposes of this Act
10. Regulations

SCHEDULE.

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 7 of 1987

An Act to provide for rationalization of prawn fishing in the Gulf of St. Vincent and Investigator Strait; to amend the Fisheries Act, 1982; and for other purposes.

[*Assented to 9 April 1987*]

Preamble:

1. *The Copes Inquiry into Prawn Fishing in South Australia concluded that, in order to avoid over-fishing of the Gulf St. Vincent and Investigator Strait fisheries, six vessels must be removed from those fisheries.*
2. *A reduction of two vessels has been achieved by allowing both licences under the Scheme of Management (Investigator Strait Experimental Prawn Fishery) Regulations, 1985, to expire, without extension or renewal, on 31 December, 1986.*
3. *A further reduction of one vessel will be achieved by the surrender of a licence in respect of the Gulf St. Vincent Prawn Fishery in accordance with an existing agreement.*
4. *To achieve removal of three more vessels, it is proposed to allow licensees in respect of the Gulf St. Vincent Prawn Fishery time to consider voluntary surrender of their licences and, if insufficient licences are surrendered, to cancel the required number of licences.*
5. *It is proposed to compensate licensees for loss of their licences and to require the remaining licensees, who will benefit from improved fishing in the fisheries, to contribute equally to the cost of providing that compensation.*
6. *The purpose of this Act is therefore to establish a legislative scheme that provides for cancellation (if necessary) of licences, for compensation of former licensees and for recouping the costs of providing that compensation.*

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Act, 1987".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation.

3. (1) In this Act, unless the contrary intention appears—

"ballot" means a ballot conducted by the drawing of lots:

"former licensee" means—

(a) a person who surrendered a licence during the relevant period;

(b) a person who held a licence immediately before its cancellation under section 5;

or

(c) a person who held a licence referred to in clause 2 of the preamble immediately before its expiry:

"the Fund" means the Fisheries Research and Development Fund:

"licence" means a fishery licence in respect of the Gulf St. Vincent Prawn Fishery:

"the relevant period" means the period extending from 1 January, 1987, to the date on which the reduction in the number of licences to 10 is achieved.

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the Fisheries Act, 1982.

Transfer of licences.

4. (1) A licence is not transferable until 1 April, 1990, but after that date may be transferred with the consent of the Director.

(2) The Director must consent to the transfer of a licence if—

(a) the criteria prescribed by the regulations are satisfied;

and

(b) an amount is paid to the Director representing, in the Director's opinion, the aggregate of the licensee's accrued and prospective liabilities by way of surcharge under this Act less any component of that aggregate liability referable to future interest and charges in respect of borrowing.

(3) Where the registration of a boat is endorsed on a licence that is or is to be transferred, that registration may also be transferred.

Cancellation of licences.

5. (1) If at the commencement of this Act there are more than 10 licences in force, the Minister may cancel sufficient licences to reduce the number of licences to that number.

(2) The Minister is not obliged to cancel the licences simultaneously but may proceed gradually by cancelling one licence at a time.

(3) A licence is liable to cancellation under this section if, and only if—

(a) the licence was in force at the commencement of this Act;

and

(b) the Electoral Commissioner has determined by ballot from amongst all such licences that the licence is liable to cancellation.

(4) At least 14 days notice of the time and place of a ballot under subsection (3) must be given by advertisement in a newspaper circulating generally throughout the State.

(5) A licence is cancelled under this section by publication of a notice of cancellation in the *Gazette*.

Compensation.

6. (1) Each former licensee is entitled, in respect of the loss of the licence, to compensation of—

(a) $450 000;

or

(b) (i) if the licence was cancelled under this Act—the amount or value of the consideration paid or given by the licensee for transfer of the licence (augmented in proportion to increases in the Consumer Price Index (all groups index for Adelaide) since the date of the transfer);

(ii) in any other case—an amount agreed between the former licensee and the Minister,.

whichever is the greater.

(2) Where a global consideration was paid or given for transfer of a licence and other property, the consideration referable to transfer of the licence will be calculated by subtracting the value of that other property as at the date of sale.

(3) Where a licence is cancelled under this Act, the amount of compensation to which the former licensee is entitled under subsection (1) will be determined by agreement between the Minister and the former licensee and, in default of agreement, either the Minister or the former licensee may apply to have the amount determined by the Land and Valuation Court.

(4) The Minister will pay the compensation to which the former licensees are entitled under this section from the Fund.

Acquisition of vessel and equipment.

7. (1) The Minister may purchase a former licensee's vessel and equipment at market value.

(2) The purchase price will be paid out of the Fund.

(3) The Minister shall sell any vessel and equipment acquired under this section, and the proceeds of sale must be paid into the Fund.

Money expended for the purposes of this Act to be recouped from remaining licensees.

8. (1) For the purpose of defraying the net liabilities of the Fund under this Act, the Minister may, by notice in the *Gazette*—

(a) impose a surcharge on the licence fees payable in respect of licences;

or

(b) vary the amount of a surcharge previously imposed.

(2) For the purposes of the Fisheries Act, 1982, the surcharge will be regarded as a component of the licence fee and, subject to any direction under subsection (3), will be payable and recoverable accordingly.

(3) The Minister may, by written notice to a licensee, give directions as to the payment of the surcharge, or any instalment of the surcharge.

(4) If a licensee fails to pay the surcharge or an instalment of the surcharge within 60 days of the date on which payment falls due, the Minister may, by notice in the *Gazette*, cancel the licence.

(5) The Minister may, by written notice to a licensee exempt the licensee wholly or in part from payment of a surcharge—

(a) if the licensee's licence is liable to cancellation under section 5;

or

(b) if the licensee's licence was granted after the commencement of this Act following acceptance of a tender made by or on behalf of the licensee.

(6) When the net liabilities of the Fund under this Act have been extinguished, the Minister must, by notice in the *Gazette*, revoke the surcharge.

(7) A reference in this section to the net liabilities of the Fund under this Act is a reference to—

(a) the aggregate of—

(i) the compensation paid to former licensees;

(ii) the amount expended in the purchase of vessels and equipment from former licensees;

and

(iii) the interest and charges in respect of loans under this Act;

less

(b) the aggregate of—

(i) the net amount realized from the sale of vessels and equipment under this Act;

(ii) the amount received by way of surcharges imposed under this Act;

and

(iii) if a new licence is granted following the calling of tenders for the licence—the net proceeds derived from acceptance of the successful tender.

9. (1) The Minister may borrow money for the purposes of this Act. Minister may borrow money for the purposes of this Act.

(2) Money borrowed pursuant to subsection (1) must be paid into the Fund and liabilities incurred in respect of the borrowing will be met from the Fund.

10. The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act. Regulations.

SCHEDULE

Amendment of the Fisheries Act, 1982

Section 32—

After "this Act" in subsection (2) *(c)* insert "or under any other Act".

After "this Act" in subsection (3) *(b)* insert "or by any other Act".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 8 of 1987

An Act to amend the Enfield General Cemetery Act, 1944.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Enfield General Cemetery Act Amendment Act, 1987".

(2) The Enfield General Cemetery Act, 1944, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of long title.

3. The long title to the principal Act is amended by inserting "to establish or acquire cemeteries in other areas," after "Enfield,".

Amendment of s. 2—Arrangement of Act.

4. Section 2 of the principal Act is amended by striking out "Establishment and management of the cemetery" and substituting "Establishment, acquisition and administration of cemeteries".

Amendment of s. 3—Interpretation.

5. Section 3 of the principal Act is amended by striking out the definition of "the cemetery".

Amendment of s. 5—Membership of trust.

6. Section 5 of the principal Act is amended—

(a) by striking out from paragraph *(d)* of subsection (1) "the Church of England" and substituting "the Anglican Church of Australia";

and

(b) by striking out from paragraph *(a)* of subsection (3) "the Church of England in Australia" and substituting "the Anglican Church of Australia".

Amendment of s. 14—Ancillary powers of trust.

7. Section 14 of the principal Act is amended by striking out from subsection (2) "the cemetery" and substituting "this Act".

Repeal of heading to Part III and substitution of new heading.

8. The heading to Part III of the principal Act is repealed and the following heading is substituted:

ESTABLISHMENT, ACQUISITION AND ADMINISTRATION OF CEMETERIES.

Repeal of ss. 20 to 23 and substitution of new ss. 20 and 21.

9. Sections 20, 21, 22, 22a and 23 are repealed and the following sections are substituted:

Functions of the trust.

20. (1) The trust will administer and maintain The Enfield General Cemetery as a public cemetery.

(2) The trust may, subject to the written approval of the Minister, establish, acquire or dispose of any other cemetery.

(3) Subject to its right to dispose of a cemetery in accordance with this section, the trust will administer and maintain cemeteries established or acquired by it as public cemeteries.

Non-application of s. 586 of the Local Government Act, 1934.

21. The provisions of section 586 of the Local Government Act, 1934, do not apply to The Enfield General Cemetery or to a cemetery established or acquired by the trust.

Amendment of s. 24a—Trust may borrow money for erection of crematorium, etc.

10. Section 24a of the principal Act is amended by striking out "the cemetery" and substituting "a cemetery".

Amendment of s. 26—Reserve fund and other investments.

11. Section 26 of the principal Act is amended by striking out from subsection (1) "the cemetery" and substituting "one or more of its cemeteries".

Amendment of s. 32—Administration of a cemetery.

12. Section 32 of the principal Act is amended—

(a) by striking out subsection (1);

(b) by striking out "the cemetery" first occurring in subsection (2) and substituting "a cemetery";

and

(c) by striking out "the cemetery" from subsection (3) and substituting "a cemetery".

Amendment of s. 33—Power to set apart portion of cemetery for religious denominations and deceased members of the armed forces.

13. Section 33 of the principal Act is amended—

(a) by striking out from subsection (1) "the cemetery", first occurring, and substituting "each of its cemeteries";

(b) by striking out from subsection (1) "the cemetery", second occurring, and substituting "a cemetery";

(c) by striking out from subsection (1) "the cemetery", third occurring, and substituting "that cemetery";

(d) by striking out from subsection (2) "the cemetery" and substituting "each of its cemeteries";

and

(e) by striking out from subsection (3) "the cemetery" and substituting "a cemetery".

Amendment of s. 34—Ministers to have free access.

14. Section 34 of the principal Act is amended by striking out "the cemetery" first occurring and substituting "a cemetery".

15. Section 35 of the principal Act is amended by striking out "the cemetery" first occurring and substituting "a cemetery". Amendment of s. 35—Erection of mortuary chapels by religious denominations.

16. Section 37 of the principal Act is amended by striking out from subsection (1) "the cemetery" and substituting "a cemetery". Amendment of s. 37—Power to grant burial rights.

17. Section 38 of the principal Act is amended— Amendment of s. 38—Power to publish scale of fees.

(a) by striking out from subsection (1) "the cemetery" and substituting "a cemetery";

and

(b) by striking out from subsection (2) "to different parts of the cemetery" and substituting "to different cemeteries and to different parts of the same cemetery".

18. Section 39 of the principal Act is amended by striking out "the cemetery" and substituting "its cemeteries". Amendment of s. 39—General power of maintenance, etc.

19. Section 40 of the principal Act is amended— Amendment of s. 40 Plan of trusts cemeteries.

(a) by striking out from subsection (1) "the cemetery" and substituting "each of its cemeteries";

and

(b) by striking out from subsection (2) "The plan" and substituting "Each plan".

20. Section 41 of the principal Act is amended— Amendment of s. 41—Register of burials.

(a) by striking out from subsection (1) "the cemetery" and substituting "a cemetery";

and

(b) by inserting in subsection (1) "in respect of that cemetery" after "40".

21. Section 42 of the principal Act is amended by striking out from subsection (1) "the cemetery" and substituting "a cemetery". Amendment of s. 42—Register of cremations.

22. Section 43 of the principal Act is amended by striking out from subsection (1) "the cemetery" wherever it occurs and substituting, in each case, "a cemetery". Amendment of s. 43—Regulations.

23. Section 44 of the principal Act is amended by striking out from subsection (2) "the cemetery" twice occurring and substituting, in each case, "The Enfield General Cemetery". Amendment of s. 44—Liability of trust for local government rates, etc.

24. The first, second and third schedules of the principal Act are repealed. Repeal of first, second and third schedules.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 9 of 1987

An Act to amend the Trade Measurements Act, 1971.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Trade Measurements Act Amendment Act, 1987".

(2) The Trade Measurements Act, 1971, is in this Act referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Repeal of s. 3.

3. Section 3 of the principal Act is repealed.

Amendment of s. 5—Interpretation.

4. Section 5 of the principal Act is amended—

(a) by inserting after the definition of "article" the following definitions:

"Australian legal unit of measurement" means a unit of measurement prescribed by the Commonwealth Regulations:

"Australian primary standard of measurement" and "Australian secondary standard of measurement" have the same meanings, respectively, as in the Commonwealth Act:;

(b) by striking out the definition of "Commonwealth Act" and substituting the following definition:

"Commonwealth Act" means the *National Measurement Act 1960* of the Commonwealth:;

(c) by striking out the definition of "Commonwealth legal unit of measurement";

(d) by striking out the definition of "Commonwealth Standard of Measurement";

(e) by striking out from the definition of "inspection" "inspector" and substituting "Inspector";

(f) by inserting after the definition of "purchaser" the following definition:

"reference standard of measurement" has the same meaning as in the Commonwealth Act:;

(g) by striking out the definition of "subsidiary standard of measurement" and substituting the following definition:

"State primary standard of measurement" has the same meaning as in the Commonwealth Act:;

and

(h) by striking out the definition of "working standard of measurement".

Repeal of ss. 7, 8, 9 and 10 and substitution of new section.

5. Sections 7, 8, 9 and 10 of the principal Act are repealed and the following section is substituted:

Provision and maintenance of standards of measurement.

7. The Commissioner for Standards shall arrange for the provision, custody and maintenance of such State primary standards of measurement and such classes of reference standards of measurement as are necessary to provide means by which, for the purposes of this Act, measurements may be made in terms of Australian legal units of measurement.

Amendment of s. 11— Verification of standards.

6. Section 11 of the principal Act is amended by striking out subsection (4).

Amendment of s. 12— Damaging or destroying standards.

7. Section 12 of the principal Act is amended by striking out "against this Act and liable to a penalty not exceeding two hundred dollars".

Amendment of s. 20— Commissioner for Standards.

8. Section 20 of the principal Act is amended by inserting after subsection (2) the following subsections:

(3) The Commissioner for Standards may delegate any of the Commissioner's powers under this Act or any other Act.

(4) A delegation under this section—

(a) must be in writing;

(b) may be made subject to such conditions as the Commissioner for Standards considers appropriate;

(c) if made to the holder of a specified office or position, empowers any person for the time being holding or acting in that office or position to exercise the delegated powers;

(d) is revocable at will;

and

(e) does not prevent the Commissioner for Standards from acting personally in any matter.

Amendment of s. 21— Secrecy, etc.

9. Section 21 of the principal Act is amended by striking out "Penalty: Two hundred dollars".

Amendment of s. 25—Approval of measuring instruments.

10. Section 25 of the principal Act is amended by striking out from subsection (3) "and liable to a penalty not exceeding two hundred dollars".

Amendment of s. 27—Only stamped measuring instrument, etc., to be used.

11. Section 27 of the principal Act is amended by striking out "Penalty: Five hundred dollars" and substituting "Penalty: $2 000".

Amendment of s. 28—Defective measuring instruments, etc., not to be used.

12. Section 28 of the principal Act is amended—

(a) by inserting at the foot of subsection (1):

Penalty: $2 000.;

and

(b) by inserting at the foot of subsection (2):

Penalty: $2 000.

Amendment of s. 29—Offences in connection with masses, etc.

13. Section 29 of the principal Act is amended by inserting at the foot of subsection (1):

Penalty: $5 000.

Repeal of s. 30.

14. Section 30 of the principal Act is repealed.

Amendment of s. 31—Trade, etc., to be in terms of standard masses and measures.

15. Section 31 of the principal Act is amended—

(a) by striking out from subsections (1) and (2) "Commonwealth legal units of measurement" twice occurring and substituting, in each case, "Australian legal units of measurement";

and

(b) by striking out from subsection (2) "and liable to a penalty not exceeding two hundred dollars".

Amendment of s. 32—Sales to be by net mass or measure.

16. Section 32 of the principal Act is amended—

(a) by striking out subsections (2) and (3) and substituting the following subsections:

(2) Where any person offers or exposes for sale by mass or measure any article in a shop or other place or in any vehicle, pack, basket, or other receptacle, that person shall have suitable measuring instruments for weighing or measuring the article located in a convenient place so as to be easily seen by a purchaser.

Penalty: $500.

(3) Any person to whom subsection (2) applies shall, at the request of a purchaser of any article sold by mass or measure, weigh or measure the article in the presence of the purchaser.;

(b) by striking out from subsection (4) "and liable to a penalty not exceeding two hundred dollars or in the case of a second or subsequent offence four hundred dollars";

and

(c) by inserting at the foot of subsection (4):

Penalty: *(a)* for a first offence, $1 000;

(b) for a second or subsequent offence, $2 000.

17. Section 33 of the principal Act is amended— Amendment of s. 33— False declaration as to masses, etc.

(a) by striking out "and liable to a penalty not exceeding five hundred dollars or in the case of a second or subsequent offence, one thousand dollars";

and

(b) by inserting at the foot of the section:

Penalty: *(a)* for a first offence, $5 000;

(b) for a second or subsequent offence, $10 000.

18. Section 34 of the principal Act is amended— Amendment of s. 34— Sales by short mass or measure or different quality.

(a) by inserting at the foot of subsection (1):

Penalty: *(a)* for a first offence, $2 000;

(b) for a second or subsequent offence, $5 000.;

(b) by inserting at the foot of subsection (1a):

Penalty: *(a)* for a first offence, $2 000;

(b) for a second or subsequent offence, $5 000.;

and

(c) by striking out subsection (2).

19. Section 36 of the principal Act is amended by striking out subsection (1) and substituting the following subsections: Amendment of s. 36— Sales of coal and firewood.

(1) A person shall not sell coal or firewood otherwise than by net mass.

Penalty: $500.

(1a) In any proceedings for an offence against subsection (1), it is a defence for the defendant to prove that the sale was not made in the course of carrying on the business of selling coal or firewood.

20. Section 37 of the principal Act is repealed. Repeal of s. 37.

21. Section 38 of the principal Act is amended— Amendment of s. 38— General penalty for offences.

(a) by striking out from subsection (3) "a penalty not exceeding two hundred dollars" and substituting "a penalty not exceeding $1 000";

and

(b) by striking out subsection (4).

22. Section 40 of the principal Act is amended by inserting after subsection (2) the following subsection: Amendment of s. 40— Evidentiary provision.

(3) In any proceedings an apparently genuine document purporting to be signed by the Commissioner for Standards containing

particulars of a delegation under this Act shall, in the absence of proof to the contrary, be accepted as proof of the particulars.

Repeal of s. 43 and substitution of new section.

23. Section 43 of the principal Act is repealed and the following section is substituted:

Commencement of prosecutions.

43. (1) Proceedings for an offence against this Act—

(a) must be disposed of summarily;

(b) must be commenced within three years of the day on which the offence is alleged to have been committed or within one year of the day on which the alleged offence came to the knowledge of the complainant or any Inspector, whichever period first expires;

and

(c) must not be commenced by a person other than the Commissioner for Standards or an Inspector except with the consent of the Minister.

(2) In any proceedings an apparently genuine document purporting to be signed by the Minister certifying the Minister's consent to the commencement of proceedings for an offence against this Act shall, in the absence of proof to the contrary, be accepted as proof of the matter so certified.

Amendment of s. 49— Offences.

24. Section 49 of the principal Act is amended by inserting at the foot of the section:

Penalty: $2 000.

Amendment of s. 50— Regulations.

25. Section 50 of the principal Act is amended—

(a) by striking out from paragraph *(a)* of subsection (1) "the supply, custody, care and verification of Primary, Secondary and Tertiary Standards and Inspector's Standards" and substituting "the supply, custody, care and verification of State primary standards of measurement and reference standards of measurement";

and

(b) by striking out from paragraph *(y)* of subsection (1) "one hundred dollars" and substituting "$500".

Repeal of second schedule.

26. The second schedule to the principal Act is repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 10 of 1987

An Act to amend the Electrical Workers and Contractors Licensing Act, 1966.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Electrical Workers and Contractors Licensing Act Amendment Act, 1987".

(2) The Electrical Workers and Contractors Licensing Act, 1966, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 2—Interpretation.

3. Section 2 of the principal Act is amended by inserting after the definition of "electrical worker" the following definition:

"external authority" means a licence, permit, certificate or other authority to carry out electrical work issued under a law of the Commonwealth, or of another State or a Territory of the Commonwealth:

Repeal of s. 6.

4. Section 6 of the principal Act is repealed.

Amendment of s. 7—Unlawful performance of electrical work.

5. Section 7 of the principal Act is amended by striking out "From a day to be fixed by proclamation, and except" and substituting "Except".

Repeal of ss. 8 and 9 and substitution of new section.

6. Sections 8 and 9 of the principal Act are repealed and the following section is substituted:

Reciprocal qualifications.

8. (1) The Trust may, by notice published in the *Gazette*—

(a) declare that an external authority of a class specified in the notice is equivalent to a licence of a specified class;

(b) vary or revoke any such notice previously published.

(2) A notice under subsection (1) may impose any conditions or restrictions on the performance of electrical work in the State by the holder of an external authority.

(3) Subject to subsection (4), while a notice is in force under this section, a person who holds an external authority of a class to which the notice applies will, for the purposes of this Act, be taken to be the holder of a licence of the equivalent class.

(4) If the holder of an external authority—

(a) contravenes or fails to comply with a provision of this Act;

or

(b) contravenes or fails to comply with a condition or restriction imposed under subsection (2),

the Trust may, by notice in writing given personally or by post, withdraw that person's right to carry out electrical work in this State in pursuance of the external authority and, in that event, that person will no longer be entitled to the benefit of this section.

Repeal of s. 14 and substitution of new section.

7. Section 14 of the principal Act is repealed and the following section is substituted:

Evidentiary provision.

14. In proceedings for an offence against this Act, a certificate apparently signed by an officer of the Trust stating—

(a) that, on a date stated in the certificate, a particular person was or was not the holder of a specified class of licence;

or

(b) that, on a date stated in the certificate, a particular person did or did not have the right to carry out electrical work in this State pursuant to an external authority of a specified class,

will be accepted, in the absence of proof to the contrary, as proof of the matter so certified.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 11 of 1987

An Act to amend the Industrial and Commercial Training Act, 1981.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Industrial and Commercial Training Act Amendment Act, 1987".

(2) The Industrial and Commercial Training Act, 1981, is in this Act referred to as "the principal Act".

Amendment of s. 9—Constitution of the Commission.

2. Section 9 of the principal Act is amended by striking out from paragraph *(b)* "the Department of Industrial Affairs and Employment" and substituting "the Office of Employment and Training".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 12 of 1987

An Act to amend the Motor Vehicles Act, 1959, and to make a related amendment to the Local Government Act, 1934.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Motor Vehicles Act Amendment Act, 1987".

(2) The Motor Vehicles Act, 1959, is in this Act referred to as "the principal Act".

Amendment of s. 37—Registration fees for vehicles in outer areas.

2. Section 37 of the principal Act is amended—

(a) by inserting after paragraph *(a)* of subsection (1) the following paragraphs:

(ab) the area of the District Council of Coober Pedy;

(ac) the area of the District Council of Roxby Downs;;

and

(b) by striking out from paragraph (b) of subsection (1) "district council district" and substituting "a district council area".

Repeal of s. 98pc and substitution of new section.

3. Section 98pc of the principal Act is repealed and the following section is substituted:

The Towtruck Tribunal.

98pc. (1) There will be a tribunal entitled the "Towtruck Tribunal".

(2) The Tribunal will consist of three members of whom—

(a) one (the presiding member) will be—

(i) a District Court Judge nominated by the Senior District Court Judge;

(ii) a Magistrate nominated by the Chief Magistrate;

or

(iii) a legal practitioner of not less than seven years standing appointed by the Governor;

and

(b) two will be appointed by the Governor on the nomination of the Minister and of these—

(i) one will be selected from a panel of three submitted by the Motor Trade Association of South Australia Incorporated (unless the association, after being requested to do so by the Minister, fails to submit such a panel);

and

(ii) the other will be a person who has, in the Minister's opinion, appropriate knowledge of the towtruck industry.

(3) A District Court Judge or a magistrate will not be nominated to the position of presiding member of the Tribunal unless the Minister, by notice in writing to the Senior Judge or the Chief Magistrate, indicates a desire to have the position filled from the judiciary or the magistracy.

(4) A member of the Tribunal who is appointed by the Governor will be appointed for a term not exceeding three years and will, on the expiration of a term of appointment, be eligible for re-appointment.

(5) A member of the Tribunal may have a deputy to act in his or her absence and the provisions applicable to nomination, selection and appointment of members extend to deputies.

(6) A member (or deputy member) of the Tribunal is entitled to such allowances and expenses (if any) as the Governor may determine.

Amendment of Local Government Act, 1934.

4. The Local Government Act, 1934, is amended by striking out paragraph *(c)* and the word "and" preceding that paragraph from subsection (3) of section 883.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 13 of 1987

An Act to amend the Adelaide Festival Centre Trust Act, 1971, the Constitution Act, 1934, the Electricity Trust of South Australia Act, 1946, the Hairdressers Registration Act, 1939, the Opticians Act, 1920, the Pipelines Authority Act, 1967, the State Government Insurance Commission Act, 1970, the State Theatre Company of South Australia Act, 1972, The State Opera of South Australia Act, 1976, and the West Beach Recreation Reserve Act, 1954.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Statutes Amendment (Finance and Audit) Act, 1987".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of Adelaide Festival Centre Trust Act, 1971.

3. The Adelaide Festival Centre Trust Act, 1971, is amended by striking out subsections (2) and (3) of section 25 and substituting the following subsection:

(2) The Auditor-General must, in respect of each financial year of the Trust, audit the accounts of the Trust.

Amendment of Constitution Act, 1934.

4. The Constitution Act, 1934, is amended—

(a) by striking out from section 71 "any warrant for the payment of money, or";

and

(b) by striking out from section 71 "warrant" second occurring.

Amendment of Electricity Trust of South Australia Act, 1946.

5. The Electricity Trust of South Australia Act, 1946, is amended by striking out subsection (1) of section 24 and substituting the following subsection:

(1) The Auditor-General must, in respect of each financial year of the trust, audit the accounts of the trust.

Amendment of Hairdressers Registration Act, 1939.

6. The Hairdressers Registration Act, 1939, is amended by striking out subsection (2) of section 15 and substituting the following subsection:

(2) The Auditor-General must, in respect of each financial year of the board, audit the accounts of the board.

Amendment of Opticians Act, 1920.

7. The Opticians Act, 1920, is amended by striking out subsection (3) of section 41 and substituting the following subsection:

(3) The Auditor-General must, in respect of each financial year of the board, audit the accounts of the board.

Amendment of Pipelines Authority Act, 1967.

8. The Pipelines Authority Act, 1967, is amended by striking out subsections (4) and (5) of section 16 and substituting the following subsections:

(4) The Auditor-General must, in respect of each financial year of the Authority, audit the accounts of the Authority.

(5) The Minister must cause the report of the Authority referred to in subsection (1) to be laid before both Houses of Parliament as soon as practicable after the Minister has received that report.

Amendment of State Government Insurance Commission Act, 1970.

9. The State Government Insurance Commission Act, 1970, is amended—

(a) by striking out subsection (2) of section 19 and substituting the following subsection:

(2) The Auditor-General must, in respect of each financial year of the Commission, audit the accounts of the Commission.;

and

(b) by striking out subsection (4) of section 19.

Amendment of State Theatre Company of South Australia Act, 1972.

10. The State Theatre Company of South Australia Act, 1972, is amended by striking out subsections (2) and (3) of section 26 and substituting the following subsection:

(2) The Auditor-General must, in respect of each financial year of the Company, audit the accounts of the Company.

Amendment of The State Opera of South Australia Act, 1976.

11. The State Opera of South Australia Act, 1976, is amended by striking out subsections (2) and (3) of section 23 and substituting the following subsection:

(2) The Auditor-General must, in respect of each financial year of The State Opera, audit the accounts of The State Opera.

Amendment of West Beach Recreation Reserve Act, 1954.

12. The West Beach Recreation Reserve Act, 1954, is amended by striking out subsections (2), (3) and (4) of section 14 and substituting the following subsection:

(2) The Auditor-General must, in respect of each financial year of the trust, audit the accounts of the trust.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

STATE EMERGENCY SERVICE ACT, 1987

No. 14 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Establishment of the State Emergency Service
5. The Director of the Service
6. Director may delegate
7. Commissioner to administer Act and submit annual report
8. Functions of the Service
9. S.E.S. units
10. Emergency officers
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ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 14 of 1987

An Act to establish the State Emergency Service; to make provision for the handling of certain emergency situations; and to provide for other related matters.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "State Emergency Service Act, 1987".

Commencement.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Interpretation.

3. In this Act, unless the contrary intention appears—

"the Commissioner" means the person for the time being holding, or acting in, the office of Commissioner of Police:

"the Deputy Director" means the person for the time being holding, or acting in, the position of Deputy Director of the State Emergency Service:

"the Director" means the person for the time being holding, or acting in, the position of Director of the State Emergency Service:

"emergency" means any occurrence (including, without limiting the generality of this definition, fire, flood, storm, tempest, earthquake, eruption, epidemic of human, animal or plant disease and accident) that causes, or threatens to cause, loss of life or injury to persons or animals or damage to property, but does not include—

(a) an occurrence in respect of which a declaration under the State Disaster Act, 1980, is in force;

(b) a civil riot or disturbance;

or

(c) an industrial dispute:

"emergency officer" means a person appointed by or under this Act as an emergency officer:

"emergency order" means an order of the Director in force under section 11 (1):

"the Service" means the State Emergency Service established under this Act:

"S.E.S. unit" means an organization registered as an S.E.S. unit under this Act.

Establishment of the State Emergency Service.

4. (1) There shall be a body entitled the "State Emergency Service".

(2) The Service shall be comprised of—

(a) the Director and all other persons employed in a position in the Service;

(b) the members of all S.E.S. units;

and

(c) all persons who assist the Director on a voluntary basis.

The Director of the Service.

5. (1) There shall be a Director of the Service.

(2) The position of Director is a position in the Public Service of the State.

Director may delegate.

6. (1) The Director may, with the approval of the Minister, delegate to any person appointed to the Public Service of the State any of the Director's powers under this Act, except the powers under section 11 (1) and (3) to assume command of operations and to extend an order assuming command.

(2) The Director may, with the approval of the Minister, delegate the powers under section 11 (1) and (3) to the Deputy Director.

(3) A delegation under this section is revocable at will and does not prevent the Director from exercising any power.

Commissioner to administer Act and submit annual report.

7. (1) The Commissioner is responsible to the Minister for the administration of this Act and, in carrying out that function, is subject to the control and direction of the Minister.

(2) The Commissioner must, on or before the thirtieth day of September in each year, submit a report to the Minister on the administration of this Act during the period of 12 months that ended on the preceding thirtieth day of June.

(3) The Minister must, as soon as practicable after receiving a report submitted pursuant to subsection (1), cause a copy of the report to be laid before each House of Parliament.

Functions of the Service.

8. The functions of the Service are as follows:

(a) to assist the Commissioner in dealing with any emergency;

(b) to assist the State Co-ordinator, in accordance with the State Disaster Plan, in carrying out counter-disaster operations or post-disaster operations under the State Disaster Act, 1980;

(c) to assist the South Australian Metropolitan Fire Service and the Country Fire Services Board in dealing with emergencies in accordance with the Acts under which those authorities are established;

(d) to deal with an emergency where no other body or person has lawful authority to assume command of operations for dealing with the emergency;

(e) to deal with an emergency until such time as any other body or person that has lawful authority to assume command of operations for dealing with the emergency has assumed command;

and

(f) to carry out such other functions as may be assigned to the Service by this Act or any other Act or by the Minister.

S.E.S. units.

9. (1) On the application of an organization formed for the purpose of dealing with emergencies, the Director may, by instrument published in the *Gazette*, register the organization as an S.E.S. unit and assign it a distinctive name.

(2) An organization is, on being registered as an S.E.S. unit, a body corporate and any former incorporation is, by virtue of that registration, dissolved.

(3) Where the incorporation of an organization is dissolved pursuant to subsection (2), the real and personal property and rights and liabilities of the organization are, by force of this subsection, transferred to and vested in the S.E.S. unit.

(4) An S.E.S. unit is authorized to perform such functions as are assigned to it by its constitution or by or under this Act.

(5) The constitutions and membership lists of all S.E.S. units must be available for inspection by any interested member of the public, on payment of the prescribed fee, at the Service's headquarters.

(6) Where—

(a) an S.E.S. unit wishes to be dissolved;

or

(b) the Director is of the opinion that an S.E.S. unit has become defunct or is not properly performing its functions,

the Director may, by instrument published in the *Gazette*, cancel the registration and dissolve the organization.

(7) Where an S.E.S. unit is dissolved pursuant to this section, the real and personal property and rights and liabilities of the unit are, by force of this subsection, transferred to and vested in the Minister, and the Minister may dispose of any property so vested in such manner as the Minister considers will best promote the objects of this Act.

(8) An S.E.S. unit is exempt from—

(a) rates under the Local Government Act, 1934;

(b) rates under the Waterworks Act, 1932, or the Sewerage Act, 1929;

and

(c) land tax under the Land Tax Act, 1936.

Emergency officers.

10. (1) The Director is an emergency officer for the purposes of this Act.

(2) The Director may appoint, individually or by class, such other persons to be emergency officers for the purposes of this Act as the Director thinks fit.

Director may assume command in certain emergencies.

11. (1) Where it appears to the Director—

(a) that an emergency has arisen or is imminent;

and

(b) that no other body or person has lawful authority to assume command, or that no other body or person having lawful authority to assume command has done so,

the Director may, by written order, assume command of all operations for dealing with the emergency.

(2) An order under subsection (1) remains, unless sooner revoked, in force for a period of 48 hours.

(3) The Director may, by written order, with the approval of the Minister, extend an order under subsection (1) for a further period of 24 hours.

(4) The Director must, as soon as reasonably practicable after making an order under subsection (1) or (3), publish the order in the prescribed manner or, in the absence of regulations prescribing the manner in which the order is to be published, in such manner as the Director thinks appropriate in the circumstances.

(5) The Director may, by written order, revoke an order made under subsection (1).

(6) The fact that the Director has, by order, assumed command of operations for dealing with an emergency does not prevent some other body or person who has lawful authority to assume command from doing so and, on that other body or person assuming command, the order of the Director shall be deemed to have been revoked.

(7) The Director, forthwith upon assuming command of operations for dealing with an emergency in respect of which some other body or person has lawful authority to assume command, must notify that other body or person of the action taken by the Director.

(8) Where both the Director and the Deputy Director are absent or are for some other reason unable to exercise a power under subsection (1) or (3), the Minister may exercise that power, and a reference in this Act to an order of the Director will be taken to include a reference to an order of the Minister under this section.

Powers of emergency officers where Director assumes command.

12. (1) An emergency officer may, while an emergency order is in force, do or cause to be done such things as the officer considers necessary or desirable for the protection of life or property under threat as a result of the emergency to which the order relates.

(2) Without limiting the generality of subsection (1), an emergency officer may—

(a) require the owner, or the person for the time being in charge of, any real or personal property to place it under the control or

at the disposition of a person nominated by the emergency officer;

(b) direct the evacuation or removal of persons or animals from an area or place, and their removal to an area or place nominated by the emergency officer;

(c) enter and, if necessary, break into any land, building, structure or vehicle;

(d) take possession of or assume control over any land, body of water, building, structure or vehicle;

(e) remove, demolish or destroy any building, structure, vehicle, vegetation or seriously injured animal;

(f) shut off, or cut off, any supply of fuel, gas, electricity or water, or any drainage facility;

(g) direct or prohibit the movement of persons, animals or vehicles;

(h) remove to such place as the emergency officer thinks proper any person who obstructs or threatens to obstruct the taking of any action pursuant to this section;

or

(i) direct (but only so far as is reasonably necessary in all the circumstances) any person to assist the emergency officer in the exercise of the powers vested in the emergency officer by this section.

Compensation where emergency officers cause damage through exercise of powers.

13. (1) A person is entitled to be compensated for any injury, loss or damage—

(a) that arises in consequence of anything done in the exercise or purported exercise of powers under section 12 (apart from subsection (2) *(h)*);

and

(b) that would not have arisen in any event in consequence of the emergency.

(2) In assessing compensation under subsection (1), the following must be taken into account:

(a) any amount recovered, or recoverable, by the person suffering the injury, loss or damage under a policy of insurance;

and

(b) the extent (if at all) to which the conduct of the person suffering the injury, loss or damage contributed to that injury, loss or damage.

Members of recognized interstate emergency organizations have certain powers.

14. (1) In this section—

"recognized interstate emergency organization" means an organization formed outside this State that has been declared by the Director, by notice in the *Gazette*, to be a recognized interstate emergency organization.

(2) A member of a recognized interstate emergency organization who assists in dealing with an emergency in this State in respect of which an

emergency order is in force shall, while so assisting, be deemed for all purposes to be an emergency officer.

Powers of emergency officers in relation to other emergencies.

15. (1) An emergency officer may, on the request of a member of the police force, assist the police in dealing with an emergency.

(2) An emergency officer may, on the request of an authorized officer under the State Disaster Act, 1980, assist in counter-disaster operations or post-disaster operations under that Act.

(3) An emergency officer may, on the request of a commanding officer under the South Australian Metropolitan Fire Service Act, 1936, assist in dealing with a fire or other emergency in accordance with that Act.

(4) An emergency officer may, on the request of a fire control officer or fire party leader under the Country Fires Act, 1976, assist in dealing with a fire or other emergency in accordance with that Act.

(5) An emergency officer may, on the request of a person in command of operations to deal with an emergency that has occurred outside this State, assist in those operations.

Offences.

16. (1) A person shall not, without reasonable excuse, refuse or fail to comply with a direction given by an emergency officer, or a person acting at the direction of an emergency officer, under this Act.

Penalty: $5 000.

(2) A person shall not obstruct or interfere with an emergency officer, or a person acting at the direction of an emergency officer, while that officer or person is acting under this Act.

Penalty: $5 000.

Immunity from liability.

17. (1) An emergency officer, or a person assisting at the direction of an emergency officer, shall not incur any civil or criminal liability for an act or omission of the officer or person in good faith in the exercise or discharge, or the purported exercise or discharge, of the powers or duties of the officer or person under this Act.

(2) A liability that would, but for subsection (1), lie against an emergency officer or other person lies against the Crown.

Compensation.

18. (1) The Workers Compensation Act, 1971, applies to a volunteer emergency officer as if service in that capacity constituted employment by the Crown.

(2) That Act applies subject to the following qualifications—

(a) the question of whether and, if so, to what extent a volunteer emergency officer is incapacitated for work must be determined by reference to employment (including self-employment) in which the volunteer emergency officer was otherwise engaged at the commencement of the incapacity or, if the volunteer emergency officer was not then engaged in other employment, by reference to employment for which he or she was then reasonably fitted;

(b) subject to paragraph *(c)*, the average weekly earnings of a volunteer emergency officer must be determined—

(i) if the volunteer emergency officer was self-employed, by reference to the rate of pay that the volunteer emer-

gency officer would have received if he or she had been doing the same work but as an employee;

or

(ii) if the volunteer emergency officer was not employed, by reference to the rate of pay that the volunteer emergency officer would have received if he or she had been working in employment for which he or she was reasonably fitted,

and, if there is an award or industrial agreement applicable to that class or grade of employment, by refence to that award or agreement;

(c) where—

(i) a volunteer emergency officer dies;

(ii) a claim for compensation is made by a person claiming to be a dependant of the deceased;

(iii) the deceased and the claimant were both members of a partnership or proprietary company and the predominant work of the deceased before the date of death was in the business of that partnership or company,

then for the purpose of determining whether the claimant was a dependant of the deceased and, if so, the extent of the dependency, any income derived by the claimant from the partnership or company during the deceased's lifetime shall (to the extent that the income is attributable to the deceased's work on behalf of the partnership or company) be taken to be an allowance made by the deceased, out of the deceased's own income, for the maintenance of that person.

(3) In this section—

"volunteer emergency officer" means—

(a) an emergency officer who receives no remuneration in respect of his or her service in that capacity;

or

(b) a person who, in pursuance of this Act, assists an emergency officer at the direction of the officer.

Evidentiary provision.

19. In any proceedings, an apparently genuine document purporting to be signed by the Director and certifying—

(a) that an order by which the Director assumed command of operations for dealing with a specified emergency was in force on a specified day or during a specified period;

or

(b) that a specified person was, on a specified day, an emergency officer, or a person acting at the direction of an emergency officer,

is, in the absence of proof to the contrary, proof of the facts certified.

Offences are summary.

20. (1) Offences against this Act are summary offences.

(2) Proceedings for an offence against this Act may not be commenced except upon the authorization of the Attorney-General.

(3) In any proceedings, an apparently genuine document purporting to be signed by the Attorney-General and to authorize the commencement of proceedings for an offence against this Act is, in the absence of proof to the contrary, proof of that authorization.

This Act does not derogate from other Acts.

21. The provisions of this Act are in addition to, and do not derogate from, the provisions of any other Act.

Money required for the purposes of this Act.

22. The money required for the purposes of this Act will be paid out of money provided by Parliament for the purpose.

Regulations.

23. (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) provide for the manner in which any of the powers of emergency officers must be exercised;

(b) provide for the registration, or the cancellation of registration, of S.E.S. units and prescribe functions, powers or duties for S.E.S. units;

(c) provide for the publication of orders made under this Act;

(d) prescribe fees in respect of administrative matters;

(e) prescribe penalties, not exceeding $500, for breach of, or non-compliance with, the regulations.

(3) Regulations made under this section—

(a) may apply generally or to a particular case or class of case;

(b) may apply throughout the State or to a particular part of the State;

or

(c) may vary according to any other factor.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

UNCLAIMED GOODS ACT, 1987

No. 15 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Act binds Crown
5. Unclaimed goods
6. Sale or disposal of unclaimed goods
7. Claim made by bailor after commencement of proceedings under this Act
8. Proceeds of sale
9. Purchaser's title to goods sold under this Act
10. This Act does not affect bailee's remedy under other Acts
11. Regulations

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 15 of 1987

An Act to provide for the disposal of unclaimed goods, and for other purposes.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Unclaimed Goods Act, 1987".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation.

3. (1) In this Act, unless the contrary intention appears—

"bailee" means a person in possession of goods belonging to another:

"bailor" means the owner of goods in the possession of a bailee:

"the Court" means—

(a) in relation to a question affecting unclaimed goods of which the value does not exceed $7 500—a local court of limited jurisdiction;

(b) in relation to a question affecting unclaimed goods of which the value exceeds $7 500 but does not exceed $100 000—a local court of full jurisdiction;

(c) in relation to a question affecting unclaimed goods of which the value exceeds $100 000—the Supreme Court:

"the relevant date" in relation to unclaimed goods means the date on which the goods become unclaimed goods for the purposes of this Act:

"scale 1" in relation to the value of unclaimed goods means a value of $100 or less:

"scale 2" in relation to the value of unclaimed goods means a value of more than $100 but less than $500:

"scale 3" means in relation to the value of unclaimed goods means a value of $500 or more.

(2) This Act applies to all goods in the possession of a bailee, including goods in the bailee's possession immediately before the commencement of this Act.

Act binds Crown.

4. This Act binds the Crown.

Unclaimed goods.

5. (1) Where a person (the bailee) is in possession of goods belonging to another (the bailor), those goods are unclaimed goods for the purposes of this Act—

(a) if the bailee received the goods in pursuance of an agreement or understanding under which the bailor was to collect the goods at a certain time or within a certain period, and the bailor has failed to do so;

(b) if—

(i) the bailee has the goods in pursuance of an agreement or understanding under which the bailee was to deliver the goods to the bailor;

and

(ii) the bailee, after making reasonable attempts to do so, has not been able to deliver the goods in accordance with the agreement or understanding;

or

(c) if there is no agreement or understanding governing the collection or delivery of the goods but the bailee has requested the bailor to collect the goods and the bailor has refused to do so or has, at the expiration of 42 days from the date of the request, not done so.

(2) A request for the purposes of subsection (1) *(c)*—

(a) must state the address at which the goods are available for collection;

(b) must contain a brief description of the goods;

(c) must state the times at which, or the hours between which, the goods will be available for collection at that address;

and

(d) may be made—

(i) by post addressed to the last known address of the bailor;

or

(ii) if the identity or whereabouts of the bailor is unknown—by notice in the prescribed form published in a newspaper circulating generally throughout the State.

(3) A request will not be regarded as having been validly made for the purposes of subsection (1) *(c)* unless it allows the bailor a reasonable opportunity to collect the goods to which it relates.

Sale or disposal of unclaimed goods.

6. (1) Subject to this section, a bailee of unclaimed goods may, after the expiration of three months from the relevant date—

(a) sell the goods;

or

(b) if the value of the goods would be insufficient to defray the costs of sale—otherwise dispose of the goods.

(2) The sale or disposal of goods under subsection (1) may be authorized, on the application of the bailee, by the Court and, if the value of the goods lies within scale 3, the goods must not be sold or disposed of without such an authorization.

(3) Where a bailee applies for an authorization under subsection (2)—

(a) notice of the application must be given to the Commissioner of Police;

and

(b) such notice (if any) as the Court thinks appropriate must be given to the bailor and any other person who, in the opinion of the Court, may have an interest in the goods.

(4) Where the Court grants an authorization under subsection (2), it may give such directions in relation to the sale or disposal of the goods as it thinks fit.

(5) If the value of unclaimed goods lies within scale 1 or 2 the goods may be sold or disposed of under subsection (1) without any authorization by the Court but if goods whose value lies within scale 2 are to be sold without such an authorization—

(a) the goods must be sold by public auction;

and

(b) notice in the prescribed form of the time and place of the proposed sale must be given at least one month before the date of the proposed sale—

(i) to the Commissioner of Police;

and

(ii) to the bailor.

(6) A notice under subsection (5) *(b)* may be given by post and, if the identity or whereabouts of the bailor is unknown, the notice to the bailor may be given by advertisement in a newspaper circulating generally throughout the State.

Claim made by bailor after commencement of proceedings under this Act.

7. (1) Subject to subsection (2), where a bailee has commenced proceedings for the sale or disposal of goods under this Act but before the goods are sold or disposed of the bailor claims the goods, the bailee must not proceed with the sale or disposal of the goods, and must hand them over to the bailor.

(2) The bailee may, before handing over goods under subsection (1), require the bailor to pay—

(a) the reasonable costs incurred by the bailee in proceeding under this Act;

(b) the reasonable costs incurred by the bailee in storing and maintaining the goods after the date on which the bailor should have collected or taken delivery of them;

(c) the amount of any lien that the bailee has over the goods.

(3) If at the expiration of 42 days after the bailee has rendered a written account of the amounts claimed under subsection (2) the bailor has not paid those amounts, the bailee may, subject to subsection (4), proceed to sell or dispose of the goods.

(4) The bailor may apply to the Court for review of an account rendered under subsection (3) and, in that event—

(a) the goods must not be sold or disposed of until the review has been completed;

and

(b) the Court may, on the review, disallow the bailee's charges in whole or in part.

Proceeds of sale.

8. (1) The proceeds of the sale of goods under this Act will be dealt with as follows:

(a) the bailee may retain from those proceeds—

(i) the reasonable costs of the sale and of proceeding under this Act;

(ii) the reasonable costs of storing and maintaining the goods prior to sale;

(iii) the amount of any lien that the bailee had over the goods;

and

(b) the balance will be paid to the Treasurer.

(2) Where the Treasurer is satisfied that a person had, prior to the sale, an interest in goods sold in pursuance of this Act, the Treasurer may pay to that person the whole or any part of the balance paid to the Treasurer in respect of the sale of those goods under subsection (1) *(b)*.

Purchaser's title to goods sold under this Act.

9. (1) A person who purchases goods that are sold in pursuance of this Act acquires a good title to the goods.

(2) The purchaser's title is free of—

(a) any mortgage, lien or charge in favour of the bailee;

(b) any other mortgage, lien or charge affecting the goods at the time of the sale of which the purchaser was then unaware.

This Act does not affect bailee's remedy under other Acts.

10. This Act does not affect a bailee's right to dispose of goods in accordance with any other Act.

Regulations.

11. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) In particular the regulations may—

(a) prescribe the information to be contained in any notice required to be given under this Act;

and

(b) vary the scales of values fixed under section 3.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 16 of 1987

An Act to amend the South Australian Metropolitan Fire Service Act, 1936.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "South Australian Metropolitan Fire Service Act Amendment Act, 1987".

(2) The South Australian Metropolitan Fire Service Act, 1936, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 5—Interpretation.

3. Section 5 of the principal Act is amended by inserting before the definition of "this Act" the following definition:

"the Union" means the United Fire Fighters Union of South Australia Incorporated:.

Amendment of s. 14—Members of the Tribunal.

4. Section 14 of the principal Act is amended—

(a) by striking out from subparagraph (ii) of paragraph *(b)* of subsection (1) "the Fire Brigade Officers Association of South Australia" and substituting "the Union";

and

(b) by striking out from subparagraph (iii) of paragraph *(b)* of subsection (1) "the Fire Fighters Association of South Australia Incorporated" and substituting "the Union".

Amendment of s. 15—Removal of members from office, vacancies, etc.

5. Section 15 of the principal Act is amended by striking out from subsection (1) "Committee" and substituting "Tribunal".

Amendment of s. 16—Constitution of Tribunal.

6. Section 16 of the principal Act is amended by striking out paragraph *(c)* and substituting the following paragraph:

(c) (i) where the appellant is an officer—the officer nominated by the Union;

or

(ii) where the appellant is a firefighter—the firefighter nominated by the Union.

Amendment of s. 52a—The South Australian Metropolitan Fire Service Disciplinary Committee.

7. Section 52a of the principal Act is amended by striking out subsections (2), (3) and (4) and substituting the following subsections:

(2) The Committee will consist of the following members appointed by the Governor:

(a) a legal practitioner of not less than seven years standing who will be the presiding officer and will be appointed on the nomination of the Minister;

(b) an officer appointed on the nomination of the Chief Officer;

(c) an officer appointed on the nomination of the Union;

(d) a firefighter appointed on the nomination of the Union.

(3) The Minister must consult the Chief Officer and the Union before nominating the presiding officer.

(4) For the purpose of hearing a complaint the Committee will be constituted of—

(a) the presiding officer;

(b) the member nominated by the Chief Officer;

and

(c) (i) where the person whose conduct is the subject of the complaint is an officer—the officer nominated by the Union;

or

(ii) where the person whose conduct is the subject of the complaint is a firefighter—the firefighter nominated by the Union.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 17 of 1987

An Act to amend the Dangerous Substances Act, 1979.

[*Assented to 9 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Dangerous Substances Act Amendment Act, 1987".

(2) The Dangerous Substances Act, 1979, is in this Act referred to as "the principal Act".

Amendment of s. 9—Powers of Inspectors.

2. Section 9 of the principal Act is amended—

(a) by striking out from subsection (5) "One thousand dollars" and substituting "$4 000";

(b) by striking out from subsection (6) "One thousand dollars" and substituting "$4 000";

and

(c) by striking out from subsection (8) "One thousand dollars" and substituting "$4 000".

Amendment of s. 10—Secrecy.

3. Section 10 of the principal Act is amended by striking out "One thousand dollars" and substituting "$4 000".

Amendment of s. 11—Person acting without authority.

4. Section 11 of the principal Act is amended by striking out "One thousand dollars" and substituting "$4 000".

Amendment of s. 12—General duty to take proper precautions with respect to dangerous substances.

5. Section 12 of the principal Act is amended by striking out:

Penalty: One thousand dollars.

and substituting:

Penalty: *(a)* in the case of a body corporate—$40 000;

(b) in any other case—$8 000 or imprisonment for two years or both.

Amendment of s. 14—Offence with respect to the keeping of dangerous substances without a licence.

6. Section 14 of the principal Act is amended by striking out:

Penalty: One thousand dollars.

and substituting:

Penalty: *(a)* in the case of a body corporate—$30 000;

(b) in any other case—$4 000 or imprisonment for one year.

Amendment of s. 18—Offence with respect to conveyance of dangerous substances without licence.

7. Section 18 of the principal Act is amended by striking out:

Penalty: One thousand dollars.

and substituting:

Penalty: *(a)* in the case of a body corporate—$30 000;

(b) in any other case—$4 000 or imprisonment for one year.

Amendment of s. 26—Offences by bodies corporate.

8. Section 26 of the principal Act is amended by inserting "(when committed by a natural person)" after "that offence" first occurring.

Amendment of s. 30—Regulations.

9. Section 30 of the principal Act is amended by striking out from paragraph *(o)* of subsection (2) "one thousand dollars" and substituting "$4 000".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 18 of 1987

An Act to apply, out of the Consolidated Account, the sum of Six Hundred and Forty-five Million Dollars for the Public Service of the State for the financial year ending on 30 June, 1988.

[*Assented to 16 April 1987*]

The Parliament of South Australia enacts as follows:

1. This Act may be cited as the "Supply Act (No. 1), 1987". Short title.

2. In this Act— Interpretation.

"the financial agreement" means the financial agreement dated the twelfth day of December, 1927, between the Commonwealth and the States, as amended.

3. Out of the Consolidated Account there may be issued and applied for the Public Service of the State for the financial year ending on 30 June, 1988, any money not exceeding in the aggregate six hundred and forty-five million dollars. Issue and application of $645 000 000.

4. (1) No payments for any establishment or service may be made out of the money referred to in section 3 in excess of the amounts voted for similar establishments or services for the financial year ended on 30 June, 1987, but there may be paid out of that money increases of salaries or wages payable by the Government of the State pursuant to any return made under the Acts relating to the Public Service, or pursuant to any regulation, or any award, order, or determination of a court or other body empowered to fix salaries or wages. Payments not to exceed amounts voted last year except in certain respects.

(2) The Treasurer is hereby authorized to pay such increases out of that money.

Power to borrow.

5. During the period between 30 June, 1987, and the commencement of the Act authorizing the raising and expenditure of money for the financial year ending on 30 June, 1988, the Treasurer may borrow, on behalf of the State and subject to the financial agreement such sums as are required for the purposes of the State.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 19 of 1987

An Act to amend the State Government Insurance Commission Act, 1970.

[*Assented to 16 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "State Government Insurance Commission Act Amendment Act, 1987".

(2) The State Government Insurance Commission Act, 1970, is in this Act referred to as "the principal Act".

Amendment of s. 12—Powers and functions of Commission.

2. Section 12 of the principal Act is amended by inserting after subsection (3) the following subsection:

(3a) The Commission—

(a) is a public instrumentality to which a delegation may be made by the Workers Rehabilitation and Compensation Corporation ("the Corporation") under the Workers Rehabilitation and Compensation Act, 1986;

(b) has the necessary power to exercise any power or function so delegated but in doing so must comply with—

(i) any conditions of the delegation;

(ii) any policies enunciated by the Corporation and communicated to the Commission in writing;

and

(iii) any directions given by the Corporation under its common seal or through an authorized officer;

(c) may, subject to any condition of the delegation, sub-delegate any of the delegated powers or functions to officers, employees or agents of the Commission.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 20 of 1987

An Act to amend the Real Property Act, 1886.

[*Assented to 16 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Real Property Act Amendment Act, 1987".

(2) The Real Property Act, 1886, is in this Act referred to as "the principal Act".

Amendment of s. 23a—Payment of moneys received in trust.

2. Section 23a of the principal Act is amended by striking out from subsections (1) and (1a) "Treasurer" wherever occurring and substituting, in each case, "Minister".

Amendment of s. 146—Discharge of mortgage by Minister in certain cases.

3. Section 146 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

(1) Where all moneys secured by a mortgage have been paid by the mortgagor and the mortgagee—

(a) is dead;

(b) cannot be found;

(c) is incapable of executing a discharge of the mortgage;

or

(d) has, in the opinion of the Minister, refused to execute a discharge of the mortgage without sufficient reason,

the Minister may execute a discharge of the mortgage.;

(1a) The Minister must not execute a discharge of mortgage pursuant to subsection (1) *(d)* unless—

(a) the Registrar-General has sent by certified mail to the mortgagee at his or her last known address

a notice stating that the Minister proposes to discharge the mortgage pursuant to subsection (1) *(d)* at the expiration of the prescribed period unless the mortgagee establishes to the satisfaction of the Minister that he or she is justified in refusing to execute a discharge of the mortgage;

and

(b) the prescribed period has elapsed since the notice was sent.

(1b) The prescribed period is—

(a) in a case where the notice is addressed to the mortgagee within Australia—one month;

(b) in any other case—two months.

(b) by striking out from subsections (2) and (3) "Treasurer" and substituting, in each case, "Minister";

and

(c) by striking out "or" between paragraphs *(b)* and *(c)* of subsection (2) and inserting after paragraph *(c)* the following word and paragraph:

or

(d) has, in the opinion of the Minister, refused to accept payment under the mortgage without sufficient reason,.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 21 of 1987

An Act to amend the Goods Securities Act, 1986.

[*Assented to 16 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Goods Securities Act Amendment Act, 1987".

(2) The Goods Securities Act, 1986, is in this Act referred to as "the principal Act".

Amendment of s. 5—Application for registration.

2. Section 5 of the principal Act is amended by striking out paragraph *(d)* of subsection (2).

Amendment of s. 9—Certificate of registered security interests.

3. Section 9 of the principal Act is amended by striking out from subsection (2) "(other than details of the debt or other pecuniary obligation secured)".

Amendment of s. 12—Order of priority.

4. Section 12 of the principal Act is amended by striking out subsections (5) and (6).

Amendment of schedule 2—Transitional provisions.

5. Schedule 2 of the principal Act is amended—

(a) by striking out subclause (1) and substituting:

(1) Where a security interest is registered under this Act during the transitional period, the date and time of entry on the register will, notwithstanding any other provision of this Act, be taken to be—

(a) where the security interest was registered under the Bills of Sale Act, 1886, or the *Companies (South Australia) Code* before the commencement of the transitional period, the date and

time of its first registration under either of those Acts;

(b) in any other case, the date and time at which the transitional period ends.;

and

(b) by striking out from subclause (2) the definition of "the registration Acts".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 22 of 1987

An Act to amend the Correctional Services Act, 1982.

[*Assented to 16 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Correctional Services Act Amendment Act, 1987".

(2) The Correctional Services Act, 1982, is in this Act referred to as "the principal Act".

Repeal of s. 37 and substitution of new section.

2. Section 37 of the principal Act is repealed and the following section is substituted:

Search of prisoners.

37. (1) The manager of a correctional institution may cause a prisoner or a prisoner's belongings to be searched in either of the following cases:

(a) where the prisoner enters the correctional institution or moves from one part of the institution to another;

(b) where the manager has reasonable cause to suspect that the prisoner has possession of an item prohibited by the regulations.

(2) The following provisions apply to the search of a prisoner:

(a) those present at any time during the search when the prisoner is naked, except a medical practitioner, must be of the same sex as the prisoner;

(b) at least two persons, apart from the prisoner, must be present at all times during the search when the prisoner is naked;

(c) for the purposes of the search, the prisoner may be required—

(i) to open his or her mouth;

(ii) to strip;

(iii) to adopt particular postures;

(iv) to do anything else reasonably necessary for the purposes of the search,

and if the prisoner does not comply with such a requirement reasonable force may be applied to secure compliance.

(3) Force must not be applied to open a prisoner's mouth except by or under the supervision of a medical practitioner.

(4) Nothing may be introduced into an orifice of a prisoner's body for the purposes of a search except by a medical practitioner.

(5) A search must be carried out expeditiously and undue humiliation of the prisoner must be avoided.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 23 of 1987

An Act to amend the Stock Diseases Act, 1934.

[*Assented to 16 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Stock Diseases Act Amendment Act, 1987".

(2) The Stock Diseases Act, 1934, is in this Act referred to as "the principal Act".

Amendment of s. 9—Power of Governor to appoint inspectors and other persons.

2. Section 9 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) The Deputy Chief Inspector has, while acting in the absence of the Chief Inspector, all the powers, duties and functions of the Chief Inspector under this and any other Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 24 of 1987

Act to amend the Registration of Deeds Act, 1935.

[*Assented to 16 April 1987*]

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Registration of Deeds Act Amendment Act, 1987". Short title.

(2) The Registration of Deeds Act, 1935, is in this Act referred to as "the principal Act".

2. Section 5 of the principal Act is amended by inserting before the definition of "instrument" in subsection (1) the following definition: Amendment of s. 5—Interpretation.

"duplicate original", in relation to an instrument, means a copy of the instrument signed by the parties to the instrument:.

3. Section 40 of the principal Act is repealed and the following section is substituted: Repeal of s. 40 and substitution of new section.

40. (1) If the registrar is satisfied that a description of land contained in an instrument deposited or enrolled under this Act is erroneous or inadequate, the registrar may amend the instrument to correct the error or inadequacy. Amendment of errors.

(2) If the registrar amends an instrument under this section, a note of the amendment, and of the date on which it was made, will be made on the instrument.

(3) A reference in this section to a description of land extends to a delineation of land by map or plan.

4. The following section is inserted after section 44 of the principal Act: Insertion of new s. 45.

Regulations.

45. (1) the Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), fees (including differential fees varying according to factors stated in the regulation) may be prescribed by regulation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 25 of 1987

An Act to amend the Bills of Sale Act, 1886.

[*Assented to 16 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Bills of Sale Act Amendment Act, 1987".

(2) The Bills of Sale Act, 1886, is in this Act referred to as "the principal Act".

Amendment of s. 38b—Minister may discharge bill of sale in certain circumstances.

2. Section 38b of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

(1) Where all money secured by a bill of sale has been paid by the grantor and the grantee—

(a) is dead;

(b) cannot be found;

(c) is incapable of executing a discharge of the bill of sale;

or

(d) has, in the opinion of the Minister, refused to execute a discharge of the bill of sale without sufficient reason,

the Minister may execute a discharge of the bill of sale.;

(1a) The Minister must not execute a discharge of a bill of sale pursuant to subsection (1) *(d)* unless—

(a) the Registrar-General has sent by certified mail to the grantee at his or her last known address a notice stating that the Minister proposes to discharge the bill of sale pursuant to subsection (1) *(d)* at the expiration of the prescribed period unless the grantee establishes to the satisfaction

of the Minister that he or she is justified in refusing to execute a discharge of the bill of sale;

and

(b) the prescribed period has elapsed since the notice was sent.

(1b) The prescribed period is—

(a) in a case where the notice is addressed to the grantee within Australia—one month;

(b) in any other case—two months.;

(b) by striking out from subsections (2) and (3) "Treasurer" and substituting, in each case, "Minister";

and

(c) by striking out "or" between paragraphs *(b)* and *(c)* of subsection (2) and inserting after paragraph *(c)* the following word and paragraph:

or

(d) has, in the opinion of the Minister, refused to accept payment under the bill of sale without sufficient reason,.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 26 of 1987

An Act to amend the Occupational Therapists Act, 1974.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Occupational Therapists Act Amendment Act, 1987".

(2) The Occupational Therapists Act, 1974, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Repeal of s. 5 and substitution of new section.

3. Section 5 of the principal Act is repealed and the following section is substituted:

Membership of the Board.

5. The Board will consist of seven members appointed by the Governor, of whom—

(a) one, (the presiding officer) will be a legal practitioner nominated by the Minister;

(b) one will be a medical practitioner nominated by the Minister;

(c) one will be a registered occupational therapist nominated by the Minister;

(d) one will be a registered occupational therapist nominated by the Council of the South Australian Institute of Technology;

(e) two will be registered occupational therapists nominated by the Australian Association of Occupational Therapists South Australian Division Incorporated;

and

(f) one will be a person, nominated by the Minister, who is neither a legal practitioner, a medical practitioner nor an occupational therapist.

Amendment of s. 7—Quorum, etc., of the Board.

4. Section 7 of the principal Act is amended—

(a) by striking out subsection (2) and substituting the following subsection:

(2) The presiding officer will preside at meetings of the Board at which he or she is present.;

and

(b) by striking out from subsection (3) "the chairman" and substituting "the presiding officer".

Amendment of s. 8—Validity of acts, etc., of the Board.

5. Section 8 of the principal Act is amended by inserting in subsection (2) "or the Registrar" after "a member of the Board".

Insertion of new section 9a.

6. The following section is inserted after section 9 of the principal Act:

Delegation.

9a. (1) The Board may delegate any of its functions or powers except those relating to proceedings under section 14.

(2) A delegation under this section—

(a) may be made—

(i) to a member of the Board or to the Registrar;

or

(ii) to a committee established by the Board;

(b) may be made subject to such conditions as the Board thinks fit;

and

(c) is revocable at will and does not derogate from the power of the Board to act in any matter itself.

(3) A person to whom functions or powers are delegated under this section and a member of a committee to which functions or powers are delegated under this section are disqualified from acting in pursuance of the delegation in relation to any matter in which the delegate, or the member, has a personal interest or a direct, or indirect, pecuniary interest.

Insertion of new ss. 11a and 11b.

7. The following sections are inserted after section 11 of the principal Act:

Limited registration for the purpose of gaining experience or teaching, etc.

11a. (1) Where a person who applies for registration under this Act does not have the necessary qualifications or does not fulfil the other requirements prescribed by this Act, the Board may register that person in pursuance of this section—

(a) in order to enable that person—

(i) to acquire the experience and skill required for full registration under this Act;

or

(ii) to teach or to undertake research or study in South Australia;

or

(b) if, in its opinion, that person's registration is in the public interest.

(2) Where an applicant for registration fails to prove to the satisfaction of the Board that he or she is of good character, the Board may register the applicant in pursuance of this section.

(3) When granting an application referred to in this section the Board may—

(a) restrict the places and times at which the applicant may provide occupational therapy;

(b) limit the kind of occupational therapy that the applicant may provide;

(c) limit the period during which the registration will have effect;

or

(d) impose such other conditions as the Board thinks fit.

Provisional registration.

11b. (1) Where a person has applied for registration under this Act and the Registrar is of the opinion that the Board is likely to grant the application, the Registrar may provisionally register the applicant.

(2) The provisional registration of a person registered pursuant to subsection (1) remains in force until the Board determines the application.

(3) The registration by the Board under this Act of a person who was provisionally registered under this section has effect from the commencement of the provisional registration.

Repeal of s. 14 and substitution of new sections.

8. Section 14 of the principal Act is repealed and the following sections are substituted:

Inquiry by Board as to unprofessional conduct.

14. (1) A complaint alleging unprofessional conduct—

(a) on the part of a registered occupational therapist;

or

(b) on the part of a person who was at the relevant time a registered occupational therapist,

may be laid before the Board by—

(c) the Registrar;

(d) the Minister;

or

(e) the Australian Association of Occupational Therapists South Australian Division Incorporated.

(2) Where a complaint has been laid under this section, the Board will inquire into the subject matter of the complaint.

(3) If, after conducting an inquiry under this section, the Board is satisfied that the registered occupational therapist or the person who was formerly registered under this Act is guilty of the unprofessional conduct alleged—

(a) it may, in the case of a registered occupational therapist, by order, exercise one or more of the following powers:

(i) reprimand the occupational therapist;

(ii) order the occupational therapist to pay a fine not exceeding $5 000;

(iii) impose conditions restricting the right of the occupational therapist to practise;

(iv) suspend the registration of the occupational therapist by removing his or her name from the register for a period not exceeding one year;

(v) cancel the registration of the occupational therapist;

or

(b) it may, in the case of a person formerly registered under this Act, order that person to pay a fine not exceeding $5 000.

Incapacity of registered person.

14a. Where, on the application of—

(a) the Registrar;

(b) the Minister;

or

(c) the Australian Association of Occupational Therapists South Australian Division Incorporated,

the Board is, after inquiring into the matter, satisfied that the ability of a registered occupational therapist to practise occupational therapy is impaired by mental or physical incapacity to such an extent that it is desirable, in the public interest, that an order be made under this section, the Board may, by order, exercise one or both of the following powers:

(d) suspend that person's registration until he or she has recovered from the incapacity or for such lesser period as the Board determines;

or

(e) impose conditions restricting that person's right to practise.

Obligation to report unfitness.

14b. Where a medical practitioner is treating a patient who is a registered occupational therapist in relation to an illness that, in the opinion of the medical practitioner, has resulted in or is likely to result in mental or physical incapacity that seriously impairs, or may seriously impair, the patient's ability to practise occupational therapy, the medical practitioner shall submit a written report to the Registrar stating—

(a) the reasons for that opinion;

(b) the views of any other medical practitioner in relation to the matter that are known to him or her;

and

(c) all other prescribed information.

Penalty: $1 000.

Power to require registered person to submit to examination.

14c. (1) For the purpose of inquiring into the mental or physical capacity of a registered occupational therapist, the Board may (without derogation from its other powers under this Act) order the occupational therapist to submit to an examination by a medical practitioner appointed by the Board.

(2) The Board may suspend the registration of a person who fails to submit to an examination ordered by the Board under subsection (1) and that suspension will remain in force until the occupational therapist submits to the examination.

Amendment of s. 15—Procedure in relation to inquiry.

9. Section 15 of the principal Act is amended—

(a) by striking out from subsection (1) "whose conduct" and substituting "who";

and

(b) by striking out subsection (4) and substituting the following subsection:

(4) A registered occupational therapist who is the subject of an inquiry conducted by the Board may be represented by counsel at the inquiry.

Amendment of s. 16—Powers of Board on hearing complaints.

10. Section 16 of the principal Act is amended by striking out from subsection (2) "two hundred dollars" and substituting "$5 000".

Insertion of new s. 19a.

11. The following section is inserted after section 19 of the principal Act:

Variation of conditions imposed by Board.

19a. (1) The Board and the Supreme Court may, at any time, on application by a registered occupational therapist, vary or revoke a condition imposed by the Board or the Court (as the case requires) under this Act in relation to that person's right to practise.

(2) The Registrar, the Minister and the Australian Association of Occupational Therapists South Australian Division Incorporated are entitled to appear and be heard on an application under this section.

Amendment of s. 20—Offences.

12. Section 20 of the principal Act is amended by striking out from subsection (1) "Two hundred dollars" and substituting "$5 000".

Amendment of s. 22—Regulations.

13. Section 22 of the principal Act is amended by striking out from paragraph *(d)* "two hundred dollars" and substituting "$2 000".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

IN VITRO FERTILIZATION (RESTRICTION) ACT, 1987

No. 27 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Restriction of in vitro fertilization
5. Summary offence
6. Expiry of Act.

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 27 of 1987

An Act to restrict the practice of in vitro fertilization.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "In Vitro Fertilization (Restriction) Act, 1987".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation.

3. In this Act—

"in vitro fertilization procedure" means any of the following:

(a) the removal of a human ovum for the purpose of fertilization within or outside the body;

(b) the storage of any such ovum prior to fertilization;

(c) the fertilization by artificial means of any such ovum within or outside the body;

(d) the culture or storage of a fertilized ovum outside the body;

(e) the transference of a fertilized or unfertilized ovum into the body.

Restriction of in vitro fertilization.

4. (1) Subject to subsection (2), a person shall not carry out an in vitro fertilization procedure.

Penalty: $10 000.

(2) A person may carry out such a procedure in pursuance of—

(a) the in vitro fertilization programme conducted by the University of Adelaide and the Queen Elizabeth Hospital;

(b) the in vitro fertilization programme conducted by The Flinders University of South Australia and the Flinders Medical Centre;

or

(c) the in vitro fertilization programme conducted by Repromed Pty. Limited at the Wakefield Memorial Hospital.

Summary offence.

5. The offence constituted by this Act is a summary offence.

Expiry of Act.

6. This Act will expire on the thirtieth day of November, 1987.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 28 of 1987

An Act to amend the Subordinate Legislation Act, 1978.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Subordinate Legislation Act Amendment Act, 1987".

(2) The Subordinate Legislation Act, 1978, is in this Act referred to as "the principal Act".

Amendment of s. 3—Arrangement of Act.

2. Section 3 of the principal Act is amended by inserting after the item:

PART III—CONSOLIDATION OF REGULATIONS

the following item:

PART IIIA—EXPIRY OF REGULATIONS.

Amendment of s. 4—Interpretation.

3. Section 4 of the principal Act is amended by inserting in the definition of "regulation" the passage "made under an Act" after "means any regulation, rule or by-law".

Insertion of new Part IIIA.

4. The following Part is inserted after Part III of the principal Act:

PART IIIA

EXPIRY OF REGULATIONS

Regulations to which this Part applies.

16a. This Part applies in relation to all regulations except—

(a) regulations that are not required to be laid before Parliament;

(b) regulations made by an authority established or incorporated under an Act relating only to the internal affairs of the authority or to the use of its land, premises or property;

(c) regulations amending an Act;

(d) regulations made pursuant to an agreement for uniform legislation between this State and the Commonwealth or other States or Territories of the Commonwealth;

(e) rules of court;

and

(f) any other prescribed regulations or regulations of a prescribed class.

Expiry of regulations to which this Part applies.

16b. (1) A regulation to which this Part applies will, unless it has already expired or been revoked, expire as follows:

(a) a regulation made before 1 January, 1960, and all subsequent regulations amending that regulation, will expire on 1 January, 1989;

(b) a regulation made on or after 1 January, 1960, but before 1 January, 1970, and all subsequent regulations amending that regulation, will expire on 1 January, 1990;

(c) a regulation made on or after 1 January, 1970, but before 1 January, 1976, and all subsequent regulations amending that regulation, will expire on 1 January, 1991;

(d) a regulation made on or after 1 January, 1976, but before 1 January, 1980, and all subsequent regulations amending that regulation, will expire on 1 January, 1992;

(e) a regulation made on or after 1 January, 1980, but before 1 January, 1986, and all subsequent regulations amending that regulation, will expire on 1 January, 1993;

and

(f) a regulation made on or after 1 January, 1986, and all subsequent regulations amending that regulation, will expire on the seventh anniversary of the day on which the regulation was made.

(2) For the purposes of this section, a regulation will be taken to have been made on the day on which it was published in the *Gazette.*

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

AUSTRALIAN MINERAL DEVELOPMENT LABORATORIES (REPEAL AND VESTING) ACT, 1987

No. 29 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Transfer of the statutory corporation's undertaking to Amdel Limited
5. Registrar-General to register Amdel Limited as proprietor of interests in land
6. Exemption from stamp duty
7. Superannuation
8. Transitional provisions
9. Repeal of Act.

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 29 of 1987

An Act to repeal the Australian Mineral Development Laboratories Act, 1959, to provide for the transfer of Amdel's undertaking to Amdel Limited, and to provide for other related matters.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Australian Mineral Development Laboratories (Repeal and Vesting) Act, 1987".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Interpretation.

3. In this Act—

"Amdel Limited" means the public company registered in this State under the name Amdel Limited:

"the statutory corporation" means The Australian Mineral Development Laboratories established under the Australian Mineral Development Laboratories Act, 1959.

Transfer of the statutory corporation's undertaking to Amdel Limited.

4. (1) Subject to subsection (2), the whole of the undertaking of the statutory corporation and all its real and personal property, rights and liabilities are transferred to and vested in Amdel Limited.

(2) The statutory corporation's interest in the following land is vested in the Minister of Mines and Energy:

(a) the whole of the land comprised in Certificates of Title Register Book Volume 2186 Folio 17, Volume 2294 Folios 126 and 127, Volume 3340 Folio 197 and Volume 3687 Folio 87;

and

(b) that portion of the land comprised in Land Grant Register Book Volume 3571 Folio 155, being Allotment 1 in Plan 121/87 deposited in the General Registry Office.

(3) Any person who was, immediately before the commencement of this Act, an employee of the statutory corporation becomes, on that commencement, an employee of Amdel Limited without prejudice to the person's salary or existing and accruing rights in respect of recreation leave, sick leave and long service leave.

(4) The statutory corporation is dissolved.

Registrar-General to register Amdel Limited as proprietor of interests in land.

5. (1) The Registrar-General will, on application by Amdel Limited and on being furnished with such duplicate certificates of title or other documents as the Registrar-General may require, register Amdel Limited as the proprietor of the interests in land vested in Amdel Limited by this Act.

(2) No registration fee is payable in respect of an application under subsection (1).

Exemption from stamp duty.

6. No stamp duty is payable in respect of the vesting of property in Amdel Limited effected by this Act or in respect of any instrument evidencing that vesting.

Superannuation.

7. (1) A person who was, immediately before the commencement of this Act, an employee of the statutory corporation and a contributor to the South Australian Superannuation Fund remains, subject to the Superannuation Act, 1974, a contributor to that Fund.

(2) Amdel Limited is, for the purposes of this section, a public authority within the meaning of the Superannuation Act, 1974.

Transitional provisions.

8. (1) A reference to the statutory corporation in any instrument or in any judgment, order or process of a court will be taken to be a reference to Amdel Limited.

(2) Any legal proceedings commenced by or against the statutory corporation may be continued by or against Amdel Limited.

Repeal of Act.

9. The Australian Mineral Development Laboratories Act, 1959, is repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 30 of 1987

An Act to amend the Lifts and Cranes Act, 1985.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Lifts and Cranes Act Amendment Act, 1987".

(2) The Lifts and Cranes Act, 1985, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 4—Interpretation.

3. Section 4 of the principal Act is amended by inserting before the definition of "crane" in subsection (1) the following definition:

"approved code of practice" means a code of practice approved by the Minister pursuant to section 17a:.

Repeal of s. 12 and substitution of new section.

4. Section 12 of the principal Act is repealed and the following section is substituted:

Duty in relation to the safe operation, etc., of a crane, hoist or lift.

12. (1) If—

(a) a proper standard of care is not exercised in the operation of a crane, hoist or lift;

(b) a crane, hoist or lift is operated while in an unsafe condition;

or

(c) the operator of a crane, hoist or lift (not being a lift designed for operation by the general public) has not received adequate training in its safe operation,

the owner of the crane, hoist or lift is guilty of an offence.

Penalty: $20 000.

(2) A person who fails to exercise a proper standard of care in erecting, constructing, modifying or maintaining a crane, hoist or lift is guilty of an offence.

Penalty: $10 000.

(3) Where in proceedings for an offence against this section—

(a) it is alleged that a proper standard of care was not exercised in relation to the operation, erection, construction, modification or maintenance of a crane, hoist or lift;

(b) non-compliance with a provision of an approved code of practice relevant to the subject matter of the charge is established,

it will be presumed, in the absence of proof to the contrary, that a proper standard of care was not exercised.

Repeal of s. 13.

5. Section 13 of the principal Act is repealed.

Amendment of s. 14— Inspection of cranes, lifts and hoists.

6. Section 14 of the principal Act is amended by striking out "crane or hoist shall cause the crane or hoist" and substituting "crane, hoist or lift shall cause it".

Amendment of s. 16— Certificates of competency.

7. Section 16 of the principal Act is amended by striking out subsection (1) and substituting the following subsections:

(1) Subject to the regulations a person shall not—

(a) operate a crane;

or

(b) perform work of a kind prescribed by regulation,

unless the person—

(c) holds an appropriate certificate of competency;

or

(d) holds an appropriate provisional certificate of competency and is acting under the immediate and personal supervision of a person who holds an appropriate certificate of competency.

Penalty: $10 000.

(1a) A person shall not cause or permit another person to act in contravention of subsection (1).

Penalty: $10 000.

Insertion of new s. 17a.

8. The following section is inserted after section 17 of the principal Act:

Approved codes of practice.

17a. (1) The Minister may, by notice published in the *Gazette*—

(a) approve a document, or a number of related documents, as a code of practice for the purposes of this Act;

or

(b) vary or revoke an approved code of practice.

(2) A notice under subsection (1)—

(a) will not be published except on the recommendation of the Chief Inspector;

and

(b) will take effect on the date of its publication or some later date specifed in the notice.

(3) A copy of each approved code of practice must be made available for inspection by members of the public without charge.

(4) An approved code of practice or the variation of an approved code of practice is subject to disallowance by Parliament.

(5) Every approved code of practice or variation must be laid before both Houses of Parliament within 14 days of notice of its approval being published in the *Gazette* if Parliament is in session or, if Parliament is not then in session, within 14 days after the commencement of the next session of Parliament.

(6) If either House of Parliament passes a resolution disallowing an approved code of practice or a variation of a code of practice then the code of practice or variation ceases to have effect.

(7) A resolution is not effective for the purposes of subsection (6) unless passed in pursuance of a notice of motion given within 14 sitting days (which need not all fall in the same session of Parliament) after the day on which the code of practice was laid before the House.

Amendment of s. 25—Regulations.

9. Section 25 of the principal Act is amended—

(a) by striking out "engaged in" from paragraph *(d)* of subsection (2) and substituting "in relation to";

and

(b) by inserting in subsection (3) after paragraph *(a)* the following paragraph:

(ab) confer discretionary powers on the Director or the Chief Inspector.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 31 of 1987

An Act to amend the Valuation of Land Act, 1971.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Valuation of Land Act Amendment Act, 1987".

(2) The Valuation of Land Act, 1971, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 5—Interpretation.

3. Section 5 of the principal Act is amended—

(a) by striking out paragraph *(b)* of the definition of "site value" and the word "and" immediately preceding that paragraph;

(b) by striking out paragraph *(c)* of the definition of "unimproved value" and the word "and" immediately preceding that paragraph;

(c) by inserting the following subsection:

(2) Where land is a unit defined on a deposited strata plan, its unimproved value or site value will be determined as follows:

(a) the capital value of all units defined on the plan will be assessed;

(b) the unimproved value or site value (as the case may require) of the parcel will be assessed;

and

(c) the unimproved value or the site value of the unit will be taken to be the value that bears to the unimproved value or the site value of the parcel the same proportion as the capital value of the unit bears to the aggregate capital value of all the units defined on the plan.

[For definitions of "unit", "deposited strata plan" and "parcel" see Part XIXB of the Real Property Act, 1886]

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 32 of 1987

An Act to amend the Bail Act, 1985.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Bail Act Amendment Act, 1987".

(2) The Bail Act, 1985, is in this Act referred to as "the principal Act".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of s. 3—Interpretation.

3. Section 3 of the principal Act is amended by inserting in the definition of "victim" the word "allegedly" after the word "who".

Amendment of s. 4—Eligibility for bail.

4. Section 4 of the principal Act is amended—

(a) by striking out paragraphs *(aa)* and *(a)* and substituting the following paragraphs:

(a) a person who is appearing before a court in answer to a summons;

(ab) a person who has been taken into custody—

(i) on a charge of an offence;

or

(ii) in the case of a child—on suspicion of having committed an offence;;

(b) by inserting after paragraph *(c)* the following paragraph:

(d) a person who is appearing before a court for allegedly failing to observe a condition of a recognizance.;

and

(c) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) Where a person who has been arrested is being detained pursuant to the Summary Offences Act, 1953, for a purpose related to the investigation of an offence, the person is not eligible for release on bail until the end of that detention.

Amendment of s. 5—Bail authorities.

5. Section 5 of the principal Act is amended—

(a) by striking out paragraph *(c)* of subsection (1) and substituting the following paragraph:

(c) a court before which the eligible person has appeared for trial or sentencing;;

(b) by striking out subparagraph (ii) of paragraph *(d)* of subsection (1) and substituting the following subparagraph:

(ii) is charged with an indictable offence but has not appeared before a court for trial or sentencing,;

and

(c) by inserting after paragraph *(e)* of subsection (1) the following paragraph:

(ea) where the eligible person is appearing before a court in answer to a summons or for allegedly failing to observe a condition of a recognizance—that court;.

Amendment of s. 6—Nature of bail agreement.

6. Section 6 of the principal Act is amended by striking out subsections (3) and (4) and substituting the following subsections:

(3) Where a bail authority decides to release a person on bail, the bail agreement may be entered into before the bail authority or, unless the bail authority otherwise directs, before—

(a) a justice;

(b) a member of the police force of or above the rank of sergeant or in charge of a police station;

(c) if the person is in prison—the person who is in charge of the prison;

or

(d) any other person specified by the bail authority or any other person of a class specified by the bail authority.

(4) Notwithstanding the provisions of any other Act, a bail authority may for any sufficient reason, on the application of a person on bail or the Crown, or of its own motion, vary the conditions of a bail agreement or revoke a bail agreement.

(5) Where a bail authority revokes a bail agreement, the bail authority (not being a member of the police force) may, if it is necessary to do so, issue a warrant for the arrest of the person who was released under the agreement.

Amendment of s. 7— Guarantee of bail.

7. Section 7 of the principal Act is amended by striking out subsections (3) and (4) and substituting the following subsections:

(3) A guarantee of bail may be entered into before the bail authority granting bail or, unless the bail authority otherwise directs, before—

(a) a justice;

(b) a member of the police force of or above the rank of sergeant or in charge of a police station;

(c) if the person who is to be released on bail is in prison—the person who is in charge of the prison;

or

(d) any other person specified by the bail authority or any other person of a class specified by the bail authority.

(4) A bail authority may for any sufficient reason, on the application of a guarantor, vary the terms of the guarantee or revoke the guarantee.

(5) Where a bail authority varies or revokes a guarantee, the bail authority may make such consequential variation of the terms of the bail agreement, or revoke the bail agreement, as appears appropriate in the circumstances.

(6) A guarantor of bail must be of or above the age of 18 years.

Amendment of s. 8— Form of application.

8. Section 8 of the principal Act is amended by striking out subsection (1) and substituting the following subsections:

(1) Subject to subsection (1a), an application of a person for release on bail—

(a) must be in the prescribed form;

(b) must contain the prescribed information;

and

(c) must be made in accordance with any procedure prescribed by the regulations.

(1a) An application for release on bail need not be made in accordance with subsection (1)—

(a) if the bail authority is satisfied that a less formal application should be permitted in view of the applicant's illiteracy, imperfect command of the English language, intellectual limitations or for any other proper reasons;

or

(b) if the bail authority has access to an application previously made by the applicant and considers that a further written application is unnecessary.

Amendment of s. 11— Conditions of bail.

9. Section 11 of the principal Act is amended—

(a) by inserting after subparagraph (i) of paragraph *(a)* of subsection (2) the following subparagraph:

(ia) to reside at a specified address and to remain at that place of residence while on bail, not leaving it except for one of the following purposes:

(A) remunerated employment;

(B) necessary medical or dental treatment for the applicant;

(C) averting or minimizing a serious risk of death or injury (whether to the applicant or some other person);

or

(D) any other purpose approved by an officer of the Department of Correctional Services or, in the case of a child, an officer of the Department of Community Welfare;;

(b) by striking out subsection (3) and substituting the following subsections:

(2a) In deciding on the conditions to be imposed in relation to a grant of bail, a bail authority should give special consideration to any submissions made by the Crown on behalf of a victim of the alleged offence.

(3) A bail authority should not impose a condition under subsection (2) (ia) or (iii) except on the application, or with the consent, of the Crown.

(3a) A bail authority should not impose a condition under subsection (2) (ia) without first obtaining a report (whether oral or in writing) from the Crown on the appropriateness of such a condition being imposed in the applicant's case.;

(c) by striking out subsection (6) and substituting the following subsection:

(6) It is a condition of every bail agreement that the person released in pursuance of the agreement will not leave the State for any reason—

(a) if the person is under the supervision of an officer of the Department of Correctional Services—without the permission of the Executive Director of the Department of Correctional Services, or his or her nominee;

(b) if the person is under the supervision of an officer of the Department of Community Welfare—without the permission of the Director-General of the Department of Community Welfare, or his or her nominee;

(c) in any other case—without the permission of—

(i) a judge or justice;

or

(ii) a member of the police force of or above the rank of sergeant or in charge of a police station.;

(d) by inserting after subsection (7) the following subsections:

(7a) Where it is a condition of a bail agreement that the person released in pursuance of the agreement will remain at a particular place of residence, a member of the police force or an officer of the Department of Correctional Services or the Department of Community Welfare authorized by the Minister for the purpose may enter the residence at any time for the purpose of ascertaining whether or not the person is complying with the condition.

(7b) A person shall not hinder a person referred to in subsection (7a) in the exercise of powers under that subsection.

Penalty: $2 000.;

and

(e) by inserting after subsection (8) the following subsections:

(9) Where—

(a) a bail authority imposes a condition under this section;

but

(b) the applicant remains in custody because the condition is not fulfilled,

the applicant must, not more than five working days after the condition is imposed (if he or she is not sooner released), be brought back before a bail authority for a review of the condition.

(10) A bail authority may, on a review of a condition under subsection (9)—

(a) confirm the condition;

(b) vary the condition;

(c) revoke the condition;

(d) impose any other condition under this section that the bail authority thinks fit.

(11) Where a bail authority imposes a condition requiring a person to remain at a particular place of residence while on bail, the bail authority must ensure that a copy of the bail agreement is furnished to the Minister responsible for the Department of Correctional Services or, if the person is a child, the Minister responsible for the Department of Community Welfare.

(12) Where a bail authority imposes a condition requiring a person to be under the supervision of an officer of the Department of Correctional Services or the Department of Community Welfare, the bail authority must ensure that a copy of the bail agreement is furnished to the Minister responsible for the relevant Department.

10. The following section is inserted after section 15 of the principal Act: Insertion of new s. 15a.

Review of magistrate's decision by Supreme Court.

15a. (1) Subject to this section, a decision of a magistrate on a review of a decision of a bail authority is subject to review by the Supreme Court.

(2) A review may be carried out under this section on the application of the Crown, the person applying for release on bail or, where the person applying for release on bail is a child, the child or a guardian of the child.

(3) A review under this section may only occur with leave of the Supreme Court (which should only be granted where it appears that there may have been some error of law or fact).

Repeal of s. 16 and substitution of new section.

11. Section 16 of the principal Act is repealed and the following section is substituted:

Stay of release on application for review.

16. (1) Notwithstanding any other provision of this Act, where—

(a) (i) a bail authority decides to release a person on bail;

or

(ii) on a review by a magistrate of a decision to release a person on bail the magistrate decides to release the person on bail;

and

(b) a member of the police force or counsel appearing on behalf of the Crown immediately indicates that an application for review of the decision will be made under this Part,

the release must be deferred.

(2) The period of deferral ends when—

(a) the review is completed;

(b) a member of the police force or some other person acting on behalf of the Crown files with the bail authority a notice that the Crown does not desire to proceed with the review;

or

(c) 72 hours elapse,

whichever first occurs.

(3) If a person is released pursuant to subsection (2) *(b)* or *(c)*, the conditions of bail are those that would have applied had the person's release not been deferred.

Amendment of s. 17— Non-compliance with bail agreement constitutes offence.

12. Section 17 of the principal Act is amended by inserting after subsection (3) the following subsections:

(3a) Proceedings for an offence against this section should not be heard and determined until after the proceedings for the principal offence have been determined unless—

(a) a court otherwise orders;

or

(b) the alleged offender elects to have the proceedings dealt with at an earlier time.

13. The following section is inserted after section 17 of the principal Act: Insertion of new s. 17a.

17a. Where a guarantor knows, or has reasonable cause to suspect, that the person released under the bail agreement has failed to comply with a term or condition of the agreement in relation to which his or her guarantee has been given, the guarantor shall take reasonable steps to inform a member of the police force that the failure has, or may have, occurred. Guarantor must inform a member of the police force if the person fails to comply with the bail agreement.

Penalty: $1 000.

14. Section 18 of the principal Act is amended by inserting after subsection (2) the following subsection: Amendment of s. 18—Arrest of eligible person on non-compliance with bail agreement.

(3) A person who is arrested without warrant pursuant to subsection (2) must, after being delivered into custody at a police station, be brought as soon as practicable before—

(a) the court or justice before which the person is bound to appear;

or

(b) any court of summary jurisdiction.

15. Section 19 of the principal Act is amended— Amendment of s. 19—Estreatment.

(a) by striking out subsection (2) and substituting the following subsection:

(2) An order for pecuniary forfeiture under subsection (1) may provide that the order is not to be carried into effect until a subsequent day to be fixed by the court or justice making the order.;

and

(b) by inserting after subsection (3) the following subsection:

(3a) A court or justice that makes an order under this section may allow the person in relation to whom the order is made time to pay the amount forfeited.

16. Section 20 of the principal Act is repealed and the following section is substituted: Repeal of s. 20 and substitution of new section.

20. When a person who is on bail is sentenced, or discharged without sentence, the bail agreement and guarantees (if any) terminate. Termination of bail agreement.

17. The following section is inserted after section 21 of the principal Act: Insertion of new s. 21a.

21a. An application may be made or a consent given under this Act on behalf of the Crown by— Applications on behalf of the Crown.

(a) a person acting on the instructions of the Crown;

or

(b) any member of the police force.

Amendment of s. 23— Proceedings for offences.

18. Section 23 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) Proceedings in respect of an offence against this Act must be commenced within 12 months after the date on which the offence is alleged to have been committed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 33 of 1987

An Act to amend the Local and District Criminal Courts Act, 1926; and to make a related amendment to the Justices Act, 1921.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Local and District Criminal Courts Act Amendment Act, 1987".

(2) The Local and District Criminal Courts Act, 1926, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 14—Interpretation.

3. Section 4 of the principal Act is amended by striking out the definition of "Registrar" and substituting the following definitions:

"Master" means the District Court Master and includes a Deputy District Court Master:

"Registrar" means, according to context—

(a) the District Court Registrar or a Deputy District Court Registrar;

or

(b) the Registrar of Magistrates' Courts or a Deputy Registrar of Magistrates' Courts.

Repeal of Part CI and substitution of new Part.

4. Part CI of the principal Act is repealed and the following Part is substituted:

CI

THE MASTERS AND REGISTRARS

DIVISION I—THE MASTERS

The Masters.

5m. (1) There will be—

(a) a District Court Master;

and

(b) such Deputy District Court Masters as are necessary for the proper administration of Justice.

(2) Subject to this section, a person is not eligible for appointment as a Master unless that person is a magistrate or is eligible for appointment as a magistrate.

(3) A Master will be appointed by the Governor.

(4) The salary and conditions of service of a Master will be the same as for a Senior Magistrate.

(5) A Master will not be dismissed or reduced in status except on the recommendation, or with the concurrence, of the Senior Judge.

Administration duties of the Masters.

5n. (1) A Master will have such administrative functions as are assigned to the Master—

(a) by rules of court;

or

(b) by the Senior Judge.

(2) A Master is, in relation to the performance of administrative functions, subject to control and direction by the Senior Judge.

Judicial functions of Masters.

5o. (1) A Master may exercise so much of the jurisdiction of a District Court as is conferred on the Masters by rules of court.

(2) The conferral of jurisdiction on a Master does not derogate from the jurisdiction exercisable by a Judge.

(3) Subject to the rules of court, an appeal will lie from a decision of a Master made in the exercise of a jurisdiction conferred by the rules to a District Court constituted of a Judge.

DIVISION II—THE DISTRICT COURT REGISTRARS

District Court Registrars.

5p. (1) There will be—

(a) a District Court Registrar;

and

(b) such Deputy District Court Registrars as are necessary for the proper administration of District Courts.

(2) A Registrar will be a Public Service employee, but no Registrar will be appointed, dismissed or reduced in status except on the recommendation, or with the concurrence, of the Senior Judge.

(3) A Registrar may exercise—

(a) any powers or functions vested by or under this Act in a clerk (including a clerk of arraigns) or bailiff insofar as those powers or functions relate to District Courts;

(b) any administrative functions assigned to a Registrar by the rules of court or by the Senior Judge.

(4) A Registrar is, in relation to the exercise of his or her powers and functions (insofar as those powers and functions arise pursuant

to subsection (3)), subject to control and direction by the Senior Judge.

DIVISION III—THE REGISTRARS OF MAGISTRATES COURTS

Magistrates Court Registrar.

5q. (1) There will be—

(a) a Registrar of Magistrates' Courts;

and

(b) such Deputy Registrars of Magistrates Courts as are necessary for the proper administration of justice.

(2) A Registrar will be a Public Service employee, but no Registrar will be appointed, dismissed or reduced in status except on the recommendation, or with the concurrence, of the Chief Magistrate.

(3) A Registrar may exercise—

(a) any powers or functions vested by or under this Act in a clerk or bailiff insofar as those powers or functions are referable to local courts of limited or special jurisdiction;

(b) any powers or functions of a clerk of a court of summary jurisdiction;

(c) any administrative functions assigned by the Chief Magistrate.

(4) A Registrar is, in relation to the exercise of his or her powers and functions (insofar as those powers and functions arise pursuant to subsection (3)), subject to control and direction by the Chief Magistrate.

Amendment of Justices Act.

5. The Justices Act, 1921, is amended by striking out from the definition of "the Registrar" in section 4 "Registrar of Courts of Subordinate Jurisdiction" and substituting "Registrar of Magistrates' Courts".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 34 of 1987

An Act to amend the Marine Act, 1936.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Marine Act Amendment Act, 1987".

(2) The Marine Act, 1936, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 4—Arrangement.

3. Section 4 of the principal Act is amended by inserting after the item:

DIVISION IV—COURT OF MARINE INQUIRY

the items:

PART VA—INTERNATIONAL CONVENTIONS

DIVISION I—PRELIMINARY:

DIVISION II—PREVENTION OF POLLUTION FROM SHIPS CONVENTION (SHIPS CARRYING OIL OR USING OIL):

DIVISION III—PREVENTION OF POLLUTION FROM SHIPS CONVENTION (SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK):

DIVISION IV—REGULATIONS.

Insertion of new Part VA.

4. The following Part is inserted after section 125 of the principal Act:

PART VA

INTERNATIONAL CONVENTIONS

DIVISION I—PRELIMINARY.

Preliminary.

125a. (1) In this Part, unless the contrary intention appears—

"Annex I" means Annex I to the Prevention of Pollution from Ships Convention:

"Annex II" means Annex II to the Prevention of Pollution from Ships Convention:

"Australian fishing vessel" has the same meaning as in the Pollution of Waters by Oil and Noxious Substances Act, 1987:

"pleasure vessel" means a pleasure vessel as defined by the Pollution of Waters by Oil and Noxious Substances Act, 1987:

"Prevention of Pollution from Ships Convention" has the same meaning as "Convention" has in the Pollution of Waters by Oil and Noxious Substances Act, 1987:

"trading ship" means a trading ship as defined by the Pollution of Waters by Oil and Noxious Substances Act, 1987.

(2) This Part applies to—

(a) a trading ship proceeding on an intra-state voyage;

(b) an Australian fishing vessel proceeding on a voyage other than an overseas voyage;

and

(c) a pleasure vessel.

Division II—Prevention of Pollution from Ships Convention (Ships Carrying or Using Oil)

Interpretation.

125b. (1) Except insofar as the contrary intention appears, an expression that is used in this Division and in the Prevention of Pollution from Ships Convention, including Annex I but not including any other Annex to that Convention, (whether or not a particular meaning is assigned to it by that Convention) has, in this Division, the same meaning as in that Convention.

(2) For the purposes of this Division, a ship shall not be taken to comply with the provisions of Annex I if it does not comply the regulations and orders referred to in section 125c.

Regulations to give effect to Regulations 13 to 19 (inclusive) of Annex I.

125c. (1) The regulations may make provision for and in relation to giving effect to Regulations 13 to 19 (inclusive) of Annex I.

(2) Without limiting the generality of subsection (1), regulations made for the purposes of that subsection may empower the Minister to make orders with respect to any matter for or in relation to which provision may be made by the regulations by virtue of this section.

(3) Orders made in pursuance of regulations made under subsection (1) are subject to disallowance by Parliament.

(4) Sections 10, 11 and 12 of the Subordinate Legislation Act, 1978, apply in relation to orders made in pursuance of regulations made under subsection (1) as if references in those sections to regulations were references to such orders.

(5) Unless the contrary intention appears, expressions used in orders made in pursuance of the regulations made under subsection (1) have the same meaning as in this Division.

(6) Orders made in pursuance on the regulations made under subsection (1) shall be read subject to this Act and the regulations

and so as not to exceed the power conferred by this Act and the regulations to the intent that where such orders would, but for this subsection, have been construed as being in excess of the power conferred by subsection (1) and the regulations, they shall be deemed to be valid orders to the extent that they are not in excess of that power.

(7) Where an order made in pursuance of the regulations made under subsection (1) is inconsistent with a provision of this Act or the regulations, the latter shall prevail and the former shall, to the extent of the inconsistency, be of no force or effect.

Ship construction certificates.

125d. Where, on receipt of declarations of survey in respect of a ship, the Minister is satified that the ship is constructed in accordance with the provisions of Annex I, the Minister may, whether or not the ship is required by Annex I to be constructed in accordance with those provisions, issue in respect of the ship a ship construction certificate in the prescribed form attesting such compliance.

Alteration, etc., of construction of ships and cancellation of certificates.

125e. (1) Where the construction of a ship in respect of which a ship construction certificate issued under section 125d is in force is altered, or such a ship is damaged, in a manner which affects its compliance with the provisions of Annex I, the master or owner of the ship shall, within seven days after the construction of the ship is altered or the ship is damaged, as the case may be, give a notice in writing of the alteration or damage to such person, and in such form, as are prescribed and, if the notice is not so given, the master and the owner of the ship are each guilty of an offence punishable upon conviction by a fine not exceeding—

(a) if the offender is a natural person—$1 000;

or

(b) if the offender is a body corporate—$5 000.

(2) Where a notice required to be given under subsection (1) is not given within the period referred to in that subsection, the following provisions of this subsection have effect—

(a) the obligation to give the notice continues, notwithstanding that that period has expired, until the notice is given;

(b) the master and the owner of the ship are each guilty of a separate and further offence in respect of each day during which the notice is not given, being a day after the expiration of that period;

(c) the penalty applicable to each such separate and further offence is a fine not exceeding—

(i) if the offender is a natural person—$1 000;

or

(ii) if the offender is a body corporate—$5 000.

(3) Where the Minister has reason to believe that—

(a) the report of a surveyor concerning a ship in respect of which a ship construction certificate issued under section 125d is in force was fraudulently or erroneously made or obtained;

(b) a ship construction certificate has been issued under section 125d in respect of a ship upon false or erroneous information;

(c) the construction of the ship in respect of which a ship construction certificate issued under section 125d is in force has been altered, or such a ship has been damaged, in a manner which affects its compliance with the provisions of Annex I;

or

(d) the owner of the ship in respect of which a ship construction certificate issued under section 125d is in force has failed to comply with section 125f in respect of the ship,

the Minister may, by instrument, cancel the certificate.

(4) Where the Minister cancels a ship construction certificate issued by the Minister in respect of a ship, the certificate is of no force or effect after the Minister has given notice in writing of the cancellation addressed to the owner, agent or master of the ship and served in accordance with the regulations.

(5) Where a ship construction certificate issued in respect of a ship is cancelled under this section, the Minister may, by notice in writing addressed to the owner, agent or master of the ship and served in accordance with the regulations, require the certificate to be delivered up to the Minister or to such other person as the Minister specifies, and the Minister may detain the ship until the requirement is complied with.

Ships to be surveyed periodically.

125f. (1) The owner of a ship in respect of which a ship construction certificate issued under section 125d is in force shall, at least once during each period that is a prescribed period in relation to the ship for the purposes of this section, cause the ship to be surveyed for the purpose of ensuring its compliance with the provisions of Annex I.

(2) Where the owner of a ship in respect of which a ship construction certificate issued under section 125d is in force fails to comply with subsection (1) in relation to the ship and to a period that is a prescribed period in relation to the ship, the owner is guilty of an offence punishable on conviction by a fine not exceeding—

(a) if the owner is a natural person—$2 000;

or

(b) if the owner is a body corporate—$10 000.

Requirement for ship construction certificates.

125g. (1) This section applies to—

(a) a trading ship proceeding on an intra-state voyage;

(b) an Australian fishing vessel proceeding on a voyage other than an overseas voyage;

or

(c) a pleasure vessel,

that is—

(d) an oil tanker of 150 tons gross tonnage and above;

or

(e) a ship, other than an oil tanker, of 400 tons gross tonnage and above.

(2) The master of a ship to which this section applies shall not begin a voyage unless there is in force in respect of the ship a ship construction certificate.

Penalty: $10 000 or imprisonment for 4 years, or both.

(3) The owner of a ship to which this section applies shall not permit the ship to begin a voyage unless there is in force in respect of the ship a ship construction certificate.

Penalty: *(a)* if the offender is a natural person—$10 000, or imprisonment for 4 years, or both;

or

(b) if the offender is a body corporate—$50 000.

(4) The regulations may exempt ships included in a prescribed class of ships from the application of subsection (1), either absolutely or subject to conditions.

(5) In this section "ship construction certificate" means—

(a) a ship construction certificate issued under section 125d;

(b) a ship construction certificate issued under section 267B of the Navigation Act;

(c) a ship construction certificate issued under a law of another State or the Northern Territory and being a certificate of the kind prescribed as acceptable for the purposes of this Division;

(d) an International Oil Pollution Prevention Certificate issued to a foreign ship under section 267C of the Navigation Act;

or

(e) an International Oil Pollution Prevention Certificate issued to an Australian ship under the law of a country other than Australia giving effect to Regulation 6 of Annex I.

(6) The owner of a ship to which this section applies in respect of which a ship construction certificate is in force shall cause the certificate to be carried on board the ship.

Penalty: $1 000.

DIVISION III—PREVENTION OF POLLUTION FROM SHIPS CONVENTION (SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK)

Interpretation.

125h. (1) Except insofar as the contrary intention appears, an expression that is used in this Division and in the Prevention of Pollution from Ships Convention, including Annex II but not including any other Annex to that Convention (whether or not a particular meaning is assigned to it by that Convention) has, in this Division, the same meaning as in that Convention.

(2) For the purposes of this Division, a ship shall not be taken to comply with the provisions of Annex II if it does not comply with the regulations and orders referred to in section 125i.

Regulations to give effect to Regulation 13 of Annex II.

125i. (1) The regulations may make provision for and in relation to giving effect to Regulation 13 of Annex II.

(2) Without limiting the generality of subsection (1), regulations made for the purposes of that subsection may empower the Minister to make orders with respect to any matter for or in relation to which provision may be made by the regulations by virtue of this section.

(3) Orders made in pursuance of regulations made under subsection (1) are subject to disallowance by Parliament.

(4) Sections 10, 11 and 12 of the Subordinate Legislation Act, 1978, apply in relation to orders made in pursuance of regulations made under subsection (1) as if references in those sections to regulations were references to such orders.

(5) Unless the contrary intention appears, expressions used in orders made in pursuance of the regulations made under subsection (1) have the same meaning as in this Division.

(6) Orders made in pursuance of the regulations made under subsection (1) shall be read subject to this Act and the regulations and so as not to exceed the power conferred by this Act and the regulations to the intent that where such orders would, but for this subsection, have been construed as being in excess of the power conferred by subsection (1) and the regulations, they shall be deemed to be valid orders to the extent that they are not in excess of that power.

(7) Where an order made in pursuance of the regulations made under subsection (1) is inconsistent with a provision of this Act or the regulations, the latter shall prevail and the former shall, to the extent of the inconsistency, be of no force or effect.

Chemical tanker construction certificates.

125j. Where, on receipt of declarations of survey in respect of a ship, the Minister is satisfied that the ship is constructed in accordance with the provisions of Annex II, the Minister may, whether or not the ship is required by Annex II to be constructed in accordance with those provisions, issue in respect of the ship a chemical tanker construction certificate in the prescribed form attesting such compliance.

Alteration, etc., of construction of ships and cancellation of certificates.

125k. (1) Where the construction of a ship in respect of which a chemical tanker construction certificate issued under section 125j is in force is altered, or such a ship is damaged, in a manner which affects its compliance with the provisions of Annex II, the master or owner of the ship shall, within seven days after the construction of the ship is altered or the ship is damaged, as the case may be, give a notice in writing of the alteration or damage to such person, and in such form, as are prescribed and, if the notice is not so given, the master and the owner of the ship are each guilty of an offence punishable upon conviction by a fine not exceeding—

(a) if the offender is a natural person—$1 000;

or

(b) if the offender is a body corporate—$5 000.

(2) Without limiting the generality of subsection (1), a ship in respect of which a chemical tanker construction certificate is in force shall, for the purposes of that subsection, be taken to be damaged if the ship becomes unfit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(3) Where a notice required to be given under subsection (1) is not given within the period referred to in that subsection, the following provisions of this subsection have effect—

(a) the obligation to give the notice continues, notwithstanding that that period has expired, until the notice is given;

(b) the master and the owner of the ship are each guilty of a separate and further offence in respect of each day during which the notice is not given, being a day after the expiration of that period;

(c) the penalty applicable to each such separate and further offence is a fine not exceeding—

(i) if the offender is a natural person—$1 000;

or

(ii) if the offender is a body corporate—$5 000.

(4) Where the Minister has reason to believe that—

(a) the report of a surveyor concerning a ship in respect of which a chemical tanker construction certificate issued under section 125j is in force was fraudulently or erroneously made or obtained;

(b) a chemical tanker construction certificate has been issued under section 125j in respect of a ship upon false or erroneous information;

(c) the construction of a ship in respect of which a chemical tanker construction certificate issued under section 125j is in force has been altered, or such a ship has been damaged, in a manner which affects its compliance with the provisions of Annex II;

or

(d) the owner of a ship in respect of which a chemical tanker construction certificate issued under section 125j is in force has failed to comply with section 125l in respect of the ship,

the Minister may, by instrument, cancel the certificate.

(5) Where the Minister cancels a che.. tanker construction certificate issued by the Minister in respect of a ship, the certificate is of no force or effect after the Minister has given notice in writing of the cancellation addressed to the owner, agent or master of the ship and served in accordance with the regulations.

(6) Where a chemical tanker construction certificate issued in respect of a ship is cancelled under this section, the Minister may, by notice in writing addressed to the owner, agent or master of the ship and served in accordance with the regulations, require the certificate to be delivered up to the Minister or to such other person as the

Minister specifies, and the Minister may detain the ship until the requirement is complied with.

Ships to be surveyed periodically.

125l. (1) The owner of a ship in respect of which a chemical tanker construction certificate issued under section 125j is in force shall, at least once during each period that is a prescribed period in relation to the ship for the purposes of this section, cause the ship to be surveyed for the purpose of ensuring its compliance with the provisions of Annex II.

(2) Where the owner of a ship in respect of which a chemical tanker construction certificate issued under section 125j is in force fails to comply with subsection (1) in relation to the ship and to a period that is a prescribed period in relation to the ship, the owner is guilty of an offence punishable on conviction by a fine not exceeding—

(a) if the owner is a natural person—$2 000;

or

(b) if the owner is a body corporate—$10 000.

Requirement for chemical tanker construction certificates.

125m. (1) Where a trading ship proceeding on an intra-state voyage is constructed or adapted so that it can carry as cargo, or part cargo, in bulk any substance that, for the purposes of Part III of the Pollution of Waters by Oil and Noxious Substances Act, 1987, is a substance in Category A, B, C or D, the master of that ship shall not begin a voyage, and the owner of that ship shall not permit that ship to begin a voyage, unless there is in force in respect of that ship a chemical tanker construction certificate.

Penalty: *(a)* if the offender is a natural person—$10 000, or imprisonment for 4 years, or both;

or

(b) if the offender is a body corporate—$50 000.

(2) The regulations may exempt ships included in a prescribed class of ships from the application of subsection (1), either absolutely or subject to conditions.

(3) In this section "chemical tanker construction certificate" means—

(a) a chemical tanker construction certificate issued under section 125j;

(b) a chemical tanker construction certificate issued under section 267Q of the Navigation Act;

(c) a chemical tanker construction certificate issued under a law of another State or the Northern Territory and being a certificate of a kind prescribed as acceptable for the purposes of this Division;

or

(d) an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued to a foreign ship under section 267R of the Navigation Act.

(4) The owner of a ship of the kind referred to in subsection (1) in respect of which a chemical tanker construction certificate is in force shall cause the certificate to be carried on board the ship.

Penalty: $1 000.

DIVISION IV—REGULATIONS

Regulations.

125n. (1) The Governor may make regulations prescribing matters—

(a) required or permitted by this Part to be prescribed;

or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) The regulations may make provision for or in relation to a matter by applying, adopting or incorporating either wholly or in part or with modifications, any regulations, rules, codes, orders, instructions or other subordinate legislation made, determined or issued under any other Act or under any Act of the Parliament of the Commonwealth.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 35 of 1987

An Act to amend the Coroners Act, 1975.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Coroners Act Amendment Act, 1987".

(2) The Coroners Act, 1975, is in this Act referred to as "the principal Act".

Repeal of s. 28 and substitution of new sections.

2. Section 28 of the principal Act is repealed and the following sections are substituted:

Re-opening of inquest.

28. (1) A coroner has a discretion to re-open an inquest at any time.

(2) A coroner must, if the Attorney-General so directs, re-open an inquest.

(3) Where an inquest is re-opened, the coroner may—

(a) confirm any previous finding;

(b) set aside any previous finding;

(c) make a fresh finding that appears justified by the evidence.

Application to set aside findings made at inquest.

28a. (1) The Supreme Court may, on the application of the Attorney-General or a person who has a sufficient interest in the finding made at an inquest, order that a coroner's finding be set aside.

(2) An application under subsection (1) must be made within one month after the coroner's finding at the inquest is published unless the Supreme Court, in its discretion, allows a longer time for the application.

(3) A finding will not be set aside under this section unless the Supreme Court is of the opinion—

(a) that the finding is against the evidence or the weight of the evidence adduced before the coroner;

or

(b) that it is desirable that the finding be set aside—

(i) because an irregularity has occurred in the proceedings or insufficient inquiry has been made;

or

(ii) because of new evidence.

(4) Where an application is made for an order setting aside a finding made at an inquest, the Supreme Court may (in addition to, or instead of, making such an order)—

(a) order that the inquest be re-opened, or that a fresh inquest be held;

(b) substitute any finding that appears justified;

and

(c) make such incidental or ancillary orders as it considers necessary or desirable in the circumstances of the case.

(5) A person has a sufficient interest in the finding made at an inquest if—

(a) the finding affects or may affect that person's pecuniary interests;

(b) the finding reflects adversely on that person's competence in his or her profession or occupation;

or

(c) the person has, in the opinion of the Supreme Court, some other interest sufficient to ground an application under this section.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

PUBLIC AND ENVIRONMENTAL HEALTH ACT, 1987

No. 36 of 1987

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ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 36 of 1987

An Act dealing with public and environmental health; to repeal the Health Act, 1935, the Noxious Trades Act, 1943, and the Venereal Diseases Act, 1947; and for other purposes.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the "Public and Environmental Health Act, 1987".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Interpretation.

3. (1) In this Act, unless the contrary intention appears—

"the authority" means—

(a) in relation to a local government area—the local council for that area;

and

(b) in relation to a part of the State that is not within a local government area—the Commission,

(but where powers are withdrawn from a local council and vested in the Commission or the Commission is, by agreement with a local council, discharging duties of the council, a reference to the authority in relation to those powers or duties is a reference to the Commission rather than that council):

"authorized officer" means a person—

(a) holding an appointment as an authorized officer under Part II;

or

(b) authorized by the Commission to exercise the powers of an authorized officer under this Act:

"building" includes a structure:

"the Commission" means the South Australian Health Commission:

"controlled notifiable disease" means—

(a) a notifiable disease included in the second schedule;

or

(b) a notifiable disease prescribed by regulation to be a controlled notifiable disease:

"controlling authority" means a controlling authority constituted under the Local Government Act, 1934:

"the Council" means the Public and Environmental Health Council constituted under Part II:

"director" of a body corporate includes any member of the governing body of the body corporate:

"local council" means a council constituted under the Local Government Act, 1934:

"medical practitioner" means a legally qualified medical practitioner:

"notifiable disease" means—

(a) a disease included in the first schedule;

or

(b) a disease prescribed by regulation to be a notifiable disease:

"occupier", in relation to premises, means a person who has, or is entitled to, possession or control of the premises and includes a person who is in charge of the premises:

"owner", in relation to premises, includes an occupier of the premises:

"place of public assembly" includes a building (in public or private ownership) at which more than 20 persons gather on a regular or irregular basis:

"pollution", in relation to water, connotes a degree of impurity that renders the water unfit for human consumption:

"premises" means—

(a) any land, building or place (including a public place, or a movable building or structure);

or

(b) a part of premises:

"public place" includes a place to which the public ordinarily has access:

"refuse" includes rubbish and other forms of waste material:

"vehicle" includes an aircraft or vessel:

"water supply" includes any natural or artificial accumulation or source of water.

(2) Premises are in an insanitary condition if—

(a) the condition of the premises gives rise to a risk to health;

(b) the premises are so filthy or neglected that there is a risk of infestation by rodents or other pests;

(c) the condition of the premises is such as to cause justified offence to the owner of any land in the vicinity;

(d) offensive material or odours are emitted from the premises;

or

(e) the premises are for some other reason justifiably declared by the authority to be in an insanitary condition.

4. This Act binds the Crown. Act to bind the Crown.

PART II

ADMINISTRATION

DIVISION I—GENERAL

5. (1) Subject to this Act, the Commission is responsible for the administration and enforcement of this Act throughout the State. Commission responsible for administration of Act.

(2) The Commission is, in relation to the administration and enforcement of this Act, subject to the control and direction of the Minister.

6. (1) The Commission may, by instrument in writing, delegate any of its powers or functions under this Act. Delegation.

(2) A delegation under this section—

(a) may be absolute or conditional;

(b) does not derogate from the powers of the Commission itself;

and

(c) is revocable at will.

(3) No delegation may be made to a local council under this section without the concurrence of the local council.

(4) The Commission must not revoke a delegation made to a local council under this section without first consulting with the local council.

7. (1) Authorized officers may be appointed by the Commission or a local council. Authorized officers.

(2) Subject to subsection (3), a person is not eligible for appointment as an authorized officer unless the person—

(a) holds qualifications approved by the Commission;

or

(b) held, immediately before the commencement of this Act, an appointment as an officer or health surveyor under the Health Act, 1935.

(3) Where, in the opinion of the Commission, a local council cannot reasonably be expected to appoint a qualified person as an authorized officer, the local council may, with the consent of the Commission, appoint a person as an authorized officer even though he or she does not comply with subsection (2).

(4) The Commission must not appoint an officer or employee of a local council as an authorized officer unless the local council consents to the appointment.

(5) Every authorized officer must be furnished with a certificate of authority and the certificate must be produced by the authorized officer on demand.

DIVISION II—THE PUBLIC AND ENVIRONMENTAL HEALTH COUNCIL

The Public and Environmental Health Council.

8. (1) The Public and Environmental Health Council is established.

(2) The Council will consist of six members appointed by the Governor, of whom—

(a) one (the presiding member) will be a member of the staff of the Commission;

(b) two will be persons selected by the Minister from a panel of five nominated by the Executive Council of the Local Government Association of South Australia;

(c) two will be persons nominated by the Commission, being persons who are qualified in, and have extensive experience in, public and environmental health;

and

(d) one will be an officer or employee of a local council, selected by the Minister from a panel of three nominated by the Australian Institute of Health Surveyors (South Australian Division).

(3) Where the Minister, by notice in writing, requests a body to make nominations for the purposes of this section, and the body fails to make the nominations within the time allowed in the notice, a person may be appointed to the Council on the Minister's nomination and that member will be taken to have been appointed on the nomination of the body in default.

(4) The Governor may appoint a suitable person to be the deputy of a member of the Council, and the deputy may, in the absence of that member, act as a member of the Council.

(5) The provisions of this section relating to the qualification and nomination of a member extend to a deputy to that member.

Term of office of members.

9. (1) Subject to this section, a member of the Council will be appointed for a term of three years.

(2) Of the first members of the Council to be appointed, the following will be appointed for a term of two years—

(a) one of the persons appointed on the nomination of the Local Government Association of South Australia;

(b) one of the persons appointed on the nomination of the Commission on account of their qualifications and experience in public and environmental health;

and

(c) the person appointed on the nomination of the Australian Institute of Health Surveyors (South Australian Division).

(3) A member of the Council is, on the expiration of a term of office, eligible for reappointment.

(4) The Governor may remove a member of the Council from office if the member—

(a) becomes mentally or physically incapable of carrying out official duties satisfactorily;

or

(b) is guilty of neglect of duty or dishonourable conduct.

(5) The office of a member of the Council becomes vacant if the member—

(a) dies;

(b) completes a term of office and is not reappointed;

(c) resigns by written notice addressed to the Minister;

or

(d) is removed from office by the Governor pursuant to subsection (4).

(6) On the office of a member of the Council becoming vacant, a person must be appointed to that office in accordance with this Act (but a person who is to fill a casual vacancy in the office of a member will only be appointed for the balance of the term of the person's predecessor).

Conduct of business.

10. (1) The presiding member will, if present at a meeting of the Council, preside at that meeting and, in the absence of that member, his or her deputy will preside.

(2) If a person is not available to preside at a meeting of the Council in accordance with subsection (1), the members present may elect one of their number to preside at the meeting.

(3) Four members constitute a quorum of the Council.

(4) A decision carried by a majority of the votes cast by the members present at a meeting of the Council is a decision of the Council.

(5) Each member present at a meeting of the Council is entitled to one vote on a question arising for decision at the meeting and, in the event of an equality of votes, the person presiding is entitled to a second, or casting, vote.

(6) Subject to this Act, the business of the Council may be conducted in such manner as it determines.

Validity of acts of Council and immunity of members.

11. (1) An act or proceeding of the Council is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

(2) No liability attaches to a member of the Council for an act or omission by that member or the Council in good faith in the exercise, performance or discharge, or purported exercise, performance or discharge, of the member's or the Council's powers, functions or duties under this Act.

(3) A liability that would, but for subsection (2), lie against a member of the Council lies against the Crown.

Functions of the Council.

12. (1) The functions of the Council are—

(a) to report (on its own initiative or at the request of the Commission or the Minister) to the Commission or the Minister on any matter relating to public or environmental health;

(b) to initiate, carry out or oversee programmes and activities designed to improve or promote public and environmental health;

(c) to promote or, with the approval of the Minister, conduct inquiries into any aspect of public and environmental health;

(d) to keep the operation, administration and enforcement of this Act under review and to recommend to the Minister any legislative or administrative change that appears necessary or appropriate;

(e) to consider and report to the Minister on regulations proposed to be made under this Act;

(f) to carry out any other function or duty assigned to the Council by the Minister or by or under this Act.

(2) The Council may establish such committees and sub-committees as it thinks fit (which may, but need not consist of, or include, members of the Council) to advise it on any aspect of its functions under this Act.

(3) The Council may, by instrument in writing, delegate any of its powers or functions under this Act.

(4) A delegation under subsection (3)—

(a) may be absolute or conditional;

(b) does not derogate from the powers of the Council itself;

and

(c) is revocable at will.

PART III

PROTECTION OF PUBLIC HEALTH

DIVISION I—ENFORCEMENT OF STANDARDS RELATING TO PUBLIC HEALTH

Powers and duties of relevant authorities.

13. (1) It is the duty of the Commission—

(a) to promote proper standards of public and environmental health in the State generally;

and

(b) to take adequate measures to ensure that the provisions of this Part are observed in those parts of the State that are not within local government areas.

(2) Subject to this section, it is the duty of a local council—

(a) to promote proper standards of public and environmental health in its area;

and

(b) to take adequate measures to ensure that the provisions of this Part are observed in its area.

(3) If, in the opinion of the Council, a local council fails to discharge its duty under this Part, the Council may take such action as appears appropriate on account of the council's failure.

(4) Without limiting the generality of subsection (3), the Council may withdraw powers from a local council and transfer them to the Commission.

(5) Before taking action under subsection (3), the Council must consult with the local council with a view to establishing the reason for the local council's failure to discharge its duty.

(6) The Commission may agree to discharge on behalf of a local council any part of its duty under subsection (2).

(7) An agreement under subsection (6) may be made subject to conditions and limitations.

(8) Where the Commission enters into an agreement under subsection (6), the Commission is, to the extent contemplated by the agreement, vested with the powers of the local council in respect of which the agreement is made.

(9) A breach of duty under this section does not give rise to any civil liability.

Delegation.

14. (1) The Commission or a local council may, by instrument in writing, delegate to any authorized officer any of its powers, functions or duties under this Part (including, in the case of a local council, powers or functions delegated to the local council by the Commission).

(2) A local council may delegate to a controlling authority any of its powers, functions or duties under this Part (including powers or functions delegated to the local council by the Commission).

(3) A delegation under this section—

(a) may be absolute or conditional;

(b) does not derogate from the powers of the Commission or the local council itself;

and

(c) is revocable at will.

Division II—Provisions Relating to Sanitation, Drainage, Etc.

Prevention of insanitary conditions on premises.

15. (1) If premises are in an insanitary condition, the authority may, by notice in writing, require an owner of the premises or any other person who is apparently responsible for causing the insanitary condition or allowing the insanitary condition to occur—

(a) to take specified action to improve the condition of the premises;

or

(b) to desist from a specified activity to which the condition of the premises is apparently attributable.

(2) If residential premises are, by reason of their insanitary condition, unfit for human habitation, the authority may include in a notice under subsection (1), a direction that, after a date specified in the notice, the premises must not be occupied until—

(a) specified action to render the premises fit for human habitation has been taken;

and

(b) the authority is satisfied that the premises are fit for human habitation.

(3) A person to whom a notice under subsection (1) is addressed shall not, without reasonable excuse, fail to comply with the notice.

Penalty: $5 000.

(4) Where a notice under subsection (1) includes a direction under subsection (2), the authority must have a copy of the notice affixed to a conspicuous part of the premises to which it relates.

(5) A person shall not, knowing that a direction exists under subsection (2), occupy premises in contravention of that direction.

Penalty: $2 500.

(6) The authority may, by further notice in writing, vary or revoke a notice given under this section.

Offence in relation to insanitary conditions on premises.

16. (1) If premises are in an insanitary condition, any person who is responsible for causing the condition or allowing the condition to occur is guilty of an offence.

Penalty: $5 000.

(2) It is a defence to a charge for an offence against subsection (1) to prove that there is a reasonable excuse for the condition of the premises.

Control of offensive activities.

17. (1) If an activity—

(a) gives rise to a risk to health;

or

(b) results in the emission of offensive material or odours,

the authority may, by notice in writing to the person responsible for the activity, require that person to desist from the activity or to observe requirements stipulated in the notice in relation to the carrying on of the activity.

(2) A person who, without reasonable excuse, fails to comply with a notice under subsection (1) is guilty of an offence.

Penalty: $5 000.

Discharge of wastes in a public place.

18. (1) A person who discharges waste into a public place is guilty of an offence.

Penalty: $10 000.

(2) A person who, without lawful permission, discharges waste into premises of which he or she is not an owner is guilty of an offence.

Penalty: $10 000.

(3) The authority may, by notice in writing, require the owner to take specified action (immediately or within a period specified in the notice)—

(a) to prevent the discharge or potential discharge of waste from those premises into a public place or other premises;

or

(b) to remove waste discharged by the owner into a public place or other premises.

(4) A person to whom a notice under subsection (3) is addressed shall not, without reasonable excuse, fail to comply with the notice.

Penalty: $10 000.

(5) The authority may, by further notice in writing, vary or revoke a notice given under this section.

Private thoroughfare.

19. (1) The owner of a private thoroughfare shall keep the thoroughfare clean and free of refuse.

Penalty: $2 500.

(2) Where the owner of a private thoroughfare fails to comply with subsection (1), the authority may, by notice in writing, require the owner to take specified action to remedy the default within such time as the authority allows in the notice.

(3) A person to whom a notice under subsection (2) is addressed shall not, without reasonable excuse, fail to comply with the notice.

Penalty: $2 500.

(4) The authority may, by further notice in writing, vary or revoke a notice given under this section.

(5) In this section—

"private thoroughfare" means a private street, road, lane, footway, alley, court or thoroughfare that the public is allowed to use.

Provision of adequate sanitation.

20. (1) Where the authority is of the opinion that premises have inadequate facilities for sanitation or personal hygiene, the authority may, by notice in writing, require an owner of the premises to take such action as the authority thinks necessary, and specifies in the notice, to provide adequate facilities within such time, and in such manner, as is specified in the notice.

(2) A person to whom a notice under subsection (1) is addressed shall not, without reasonable excuse, fail to comply with the notice.

Penalty: $2 500.

(3) The authority may, by further notice in writing, vary or revoke a notice given under this section.

(4) The owner of a building that is used as a place of public assembly shall keep the building clean and properly ventilated.

Penalty: $2 500.

DIVISION III—PROTECTION OF WATER SUPPLIES

Pollution of water.

21. (1) A person who pollutes a water supply is guilty of an offence.

Penalty: $10 000.

(2) If the authority is of the opinion that a water supply may become polluted in consequence of a particular activity, the authority may, by notice in writing addressed to the person responsible for the activity, require the person—

(a) to take specified action to prevent pollution of the water supply within such time as the authority specifies in the notice;

or

(b) to desist from the activity.

(3) A person to whom a notice under subsection (2) is addressed shall not, without reasonable excuse, fail to comply with the notice.

Penalty: $10 000.

(4) The authority may, by further notice in writing, vary or revoke a notice given under this section.

Sources of water supply may be closed.

22. (1) If the authority is of the opinion that a water supply is polluted, the authority may, by notice published in the *Gazette*, restrict or prohibit the taking of water from that water supply or the use of water so taken.

(2) A person, knowing that a notice has been given under subsection (1), shall not, without reasonable excuse, contravene the notice.

Penalty: $7 500.

(3) The authority may, by further notice in the *Gazette*, vary or revoke a notice given under this section.

DIVISION IV—ACTION ON DEFAULT, RECOVERY OF COSTS, ETC.

Action on default.

23. (1) Where the requirements of a notice under this Part are not complied with, the authority may cause the requirements to be carried out.

(2) A person authorized to do so by the authority may enter premises at any reasonable time for the purposes of carrying out the requirements of a notice, but shall not break into the premises unless authorized to do so by warrant of a justice.

(3) A justice may issue a warrant under subsection (2) if satisfied, by affidavit or other sworn evidence, that the warrant is reasonably required in the circumstances of the case.

(4) The authority may recover the costs and expenses reasonably incurred in exercising the powers under subsection (1) from the person who failed to comply with the notice, as a debt.

(5) Any costs and expenses reasonably incurred in exercising powers under subsection (1) in respect of land will be a charge against the land and may be recovered as if they were rates in arrear.

Recovery of costs by one person from another.

24. Where—

(a) a person is required by a notice under this Part to take any action;

and

(b) the circumstances out of which the requirement arose are attributable to the act or default of another,

the person may recover the amount of the costs and expenses reasonably incurred in complying with the notice from that other person as a debt.

Division V—Appeals

Grounds for, and manner of, appeal.

25. (1) A person may appeal against a requirement imposed under this Part.

(2) An appeal under this section lies to the Council and must be instituted by a written notice of appeal setting out, in detail, the grounds of appeal.

(3) An appeal must be instituted within 14 days of the requirement being imposed under this Part unless the Council, in its discretion, allows an extension of time for instituting the appeal.

(4) Subject to a determination by the Council to the contrary in relation to a particular appeal, where an appeal has been instituted, the requirement appealed against is suspended until the appeal has been determined or withdrawn.

(5) An appeal under this section is to be conducted as a full review of the matter to which the appeal relates.

(6) An appeal under this section must be dealt with as expeditiously as possible.

Constitution of special committee.

26. (1) An appeal will be heard and determined by a review committee, constituted by the Council, consisting of—

(a) the member of the staff of the Commission appointed to the Council (who will preside);

(b) one of the members of the Council who were appointed on the nomination of the Local Government Association of South Australia;

and

(c) either one of the members of the Council who were appointed on the nomination of the Commission on account of their qualifications and experience in public and environmental health or the member of the Council appointed on the nomination of the Australian Institute of Health Surveyors (South Australian Division).

(2) A decision in which two members of a review committee concur is a decision of the Council and takes effect without further action by the Council.

Proceedings of review committee.

27. (1) For the purposes of dealing with an appeal, a review committee may adopt such procedures as it thinks appropriate.

(2) A party is entitled to appear personally or, with leave of the committee, by representative, in proceedings before a review committee.

(3) A review committee may proceed to determine an appeal in the absence of a party if the party has had notice of the time and place of the proceedings and fails to appear.

(4) In any proceedings before a review committee, the review committee is not bound by the rules of evidence but may inform itself upon any matter relating to the proceedings in such manner as it thinks fit.

Determination of an appeal.

28. Upon hearing an appeal, a review committee may—

(a) revoke the requirement appealed against and, where appropriate, discharge any notice given to the appellant;

(b) substitute any requirement or notice that could have been made or given in the first instance;

(c) dismiss the appeal;

(d) refer the matter back to the authority for re-consideration;

(e) make an order for costs;

(f) make any ancillary order that the committee thinks fit.

Right of appeal against decision of Council.

29. (1) A right of appeal exists to the District Court against a decision of the Council under this Division.

(2) On an appeal, the District Court may—

(a) vary or quash the Council's decision;

(b) make any order that the justice of the case may require.

PART IV

NOTIFIABLE DISEASES AND THE PREVENTION OF INFECTION

DIVISION I—NOTIFICATION OF DISEASES

Notification.

30. (1) Where a medical practitioner becomes aware that a person is suffering from a notifiable disease or has died from a notifiable disease the medical practitioner—

(a) shall as soon as practicable and, in any event, within five days of becoming so aware, report the existence of the disease to the Commission;

and

(b) shall furnish the Commission with such further information as the Commission may require.

Penalty: $1 000.

(2) A report under subsection (1)—

(a) must be made in a manner and form determined by the Commission;

and

(b) must be accompanied by the required information.

(3) On the receipt of a report under subsection (1) that relates to a person in a local government area, the Commission must, where there is an

immediate threat to public health in the area, immediately communicate the contents of the report to the local council for the area.

(4) No report is required under subsection (1) with respect to a particular case if the medical practitioner knows or reasonably believes that a report has already been made to the Commission.

(5) A medical practitioner who makes a report to the Commission in accordance with this section is, subject to any prescribed exception, entitled to be paid the prescribed fee.

(6) No civil liability arises from a statement made honestly and without malice in a report under this section.

(7) In this section—

"medical practitioner" includes a person of a prescribed class.

DIVISION II—EXAMINATION AND TREATMENT OF DISEASES

Power of Commission to require a person to undergo an examination.

31. (1) Where the Commission has reasonable grounds to suspect that a person is or may be suffering from a controlled notifiable disease, the Commission may, by notice in writing addressed to the person, require the person to present himself or herself for examination by a medical practitioner at such time and place as is specified in the notice.

(2) If a person who has been served with a notice under subsection (1) fails to comply with the notice, a magistrate may issue a warrant for the apprehension and examination of that person.

(3) Reasonable force may be exercised in the execution of a warrant under subsection (2).

(4) A person apprehended in pursuance of a warrant may be detained for a period not exceeding 48 hours for the purpose of examination.

(5) Where—

(a) a person is examined pursuant to this section;

and

(b) the examination discloses that the person is not suffering from a controlled notifiable disease,

the person is entitled to reasonable compensation from the Commission for costs and expenses directly incurred by the person in attending for the examination.

(6) Compensation payable under subsection (5) may be recovered as a debt.

Power of Commission, in the interests of public health, to detain persons suffering from diseases.

32. (1) Where—

(a) a medical practitioner has certified that a person is suffering from a controlled notifiable disease;

and

(b) the Commission is of the opinion that in the interests of public health the person should be kept at a suitable place of quarantine,

a magistrate may, on the application of the Commission, issue a warrant for the detention of the person at a suitable place of quarantine.

(2) An application for a warrant under subsection (1) may, in an emergency, be made by telephone.

(3) A person held in detention under subsection (1) must be given a notice setting out the reason for his or her detention and such other information as may be prescribed.

(4) A person may not be held in detention under subsection (1) for more than 72 hours unless—

(a) the Commission applies to a magistrate for an extension of the period of detention;

and

(b) the magistrate, after considering any representations made by or on behalf of the person under detention, extends the period of detention.

(5) Subject to subsection (6), a person must not be detained under this section for more than six months.

(6) A person may be detained for more than six months on the authorization of a Supreme Court judge.

(7) A person who is being detained pursuant to the decision of a magistrate under subsection (4) or the authorization of a Supreme Court judge under subsection (6) must be examined by a medical practitioner at intervals not exceeding—

(a) four weeks;

or

(b) such shorter period or periods as the magistrate or judge may determine having regard to the nature of the particular notifiable disease and the extent of the infection.

(8) An examination under subsection (7) is not to proceed if the person objects to being examined.

Power of Commission to give directions to persons suffering from diseases.

33. (1) Where—

(a) a medical practitioner has certified that a person is suffering from a controlled notifiable disease;

and

(b) the Commission is of the opinion that the person should take or refrain from certain action to prevent the risk of infection spreading to others,

the Commission may, by notice in writing, give appropriate directions to the person.

(2) The directions that may be given to a person under subsection (1) include—

(a) a direction that the person reside at a specified place;

(b) a direction that the person place himself or herself under the supervision of a member of the staff of the Commission or a medical practitioner nominated by the Commission and obey the reasonable directions of that person;

(c) a direction that the person submit himself or herself to examination by a medical practitioner at such intervals as the Commission may require;

(d) a direction that the person refrain from performing specified work or any work other than specified work;

(e) such other directions as to the person's conduct or supervision that the Commission considers should apply in order to prevent the spread of infection.

(3) A person to whom a direction is given under this section may apply to a magistrate for a review of the direction.

(4) On a review under subsection (3), the magistrate may—

(a) confirm, vary or quash the direction;

(b) make any further or other direction.

(5) A person who, without reasonable excuse, contravenes or fails to comply with a direction under this section is guilty of an offence.
Penalty: $5 000.

(6) If a person fails to comply with a direction under this section, a magistrate may issue a warrant for the apprehension of that person.

(7) A person apprehended in pursuance of a warrant must be brought as soon as practicable before the magistrate who may—

(a) add to, or vary, the directions;

or

(b) issue a warrant for the detention of the person under this Part in a place of quarantine.

Right of appeal against a decision of a magistrate.

34. (1) A right of appeal exists to the Supreme Court (constituted of a single judge) against a decision of a magistrate under this Division.

(2) On an appeal, the Supreme Court may—

(a) vary or quash the magistrate's decision;

(b) make any order that the justice of the case may require.

Division III—Control and Prevention of Infection

Reporting to local councils.

35. The Commission—

(a) shall, on a monthly basis, provide each local council with a report on the occurrence of notifiable diseases in its area and any problems caused by such diseases that may exist in the area;

and

(b) shall inform a local council of the occurrence of any notifiable disease in its area that constitutes, or may constitute, a threat to public health.

Action to prevent the spread of infection.

36. (1) Where there is danger to public health from the possible spread of a controlled notifiable disease, the Commission or an authorized officer authorized by the Commission for the purposes of this section may give directions and take such action as may be appropriate to avert that danger.

(2) Without limiting the generality of subsection (1), the Commission or authorized officer may—

(a) direct that any premises, vehicle or article be cleansed or disinfected;

(b) direct the destruction of any article, substance or food;

(c) seize any vehicle, article, substance or food;

(d) impose areas of quarantine or close premises;

(e) restrict movement into and out of any place or premises;

(f) take such other action as may be prescribed.

(3) A person who is given a direction under subsection (1) or (2) shall not, without reasonable excuse, fail to comply with the direction.

Penalty: $5 000.

(4) For the purpose of exercising a power under subsection (1) or (2), an authorized officer may be accompanied by such assistants as may be necessary or desirable in the circumstances.

(5) Where a person fails to take action in accordance with a direction, the Commission or an authorized officer may take that action or cause it to be taken.

(6) The Commission may recover as a debt costs and expenses reasonably incurred in exercising powers under subsection (5) from the person who failed to take the required action.

(7) For the purpose of exercising any power under this section, a person authorized to do so by the Commission may enter premises at any reasonable time, but shall not break into the premises unless authorized to do so by warrant of a justice.

(8) A justice may issue a warrant under subsection (7) if satisfied, by affidavit or other sworn evidence, that the warrant is reasonably required in the circumstances of the case.

(9) Where the Commission informs a local council of the occurrence of a controlled notifiable disease in its area that constitutes a threat to public health, the local council must take such action as is reasonably open to the local council to assist in preventing the spread of that disease.

Person infected with disease must prevent transmission to others.

37. (1) A person infected with a controlled notifiable disease shall take all reasonable measures to prevent transmission of the disease to others.

Penalty: $10 000.

(2) A person infested with vermin shall take all reasonable measures to prevent transmission of the vermin to others.

Penalty: $200.

(3) If a child is infested with vermin, a parent of the child shall take all reasonable measures to prevent transmission of the vermin to others.

Penalty: $200.

(4) In this section—

"child" means a person under the age of 16 years:

"vermin" includes lice, fleas and mites.

PART V

MISCELLANEOUS

Inspections, etc.

38. (1) An authorized officer may, for purposes connected with the exercise, performance or discharge of any power, function or duty under this Act—

(a) (i) after giving reasonable notice to the occupier of premises, enter and inspect the premises;

or

(ii) inspect any vehicle;

(b) during the course of the inspection of any premises or vehicle—

(i) ask questions of any person found in the premises or vehicle;

(ii) inspect any article or substance found in the premises or vehicle;

(iii) take and remove samples of any substance found in the premises or vehicle;

(iv) require any person to produce any plans, specifications, books, papers or documents;

(v) examine, copy and take extracts from any plans, specifications, books, papers or documents;

(vi) take photographs, films or video recordings;

(vii) take measurements, make notes and carry out tests;

and

(viii) remove any article that may constitute evidence of the commission of an offence against this Act;

and

(c) require any person to answer any question that may be relevant to—

(i) ascertaining whether the person is suffering from a notifiable disease;

or

(ii) the administration or enforcement of this Act.

(2) In the exercise of powers under subsection (1), an authorized officer may be accompanied by such assistants as may be necessary or desirable in the circumstances.

(3) Where an authorized officer is inspecting premises or a vehicle under this section, the person in charge of the premises or vehicle shall provide such assistance as the authorized officer reasonably requires to facilitate the inspection.

(4) A person who—

(a) hinders or obstructs an authorized officer, or a person assisting an authorized officer, in the exercise of a power under this section;

(b) having been asked a question under this section, does not answer the question to the best of his or her knowledge, information and belief;

or

(c) being the person in charge of premises or a vehicle subject to an inspection and having been required to provide reasonable assistance to facilitate the inspection, refuses or fails to provide such assistance,

is guilty of an offence.

Penalty: $2 500.

(5) A person is not required to answer a question under this section if the answer would tend to incriminate him or her.

Councils may appoint officers of health.

39. A local council may appoint a person to act as the officer of health for its area.

Immunity from liability.

40. (1) No personal liability attaches to—

(a) an authorized officer or a person assisting an authorized officer in the exercise or purported exercise of a power under this Act;

or

(b) a member of the staff of the Commission or any other person authorized by the Commission to act on behalf of the Commission,

for an act or omission on his or her part in good faith in the exercise, performance or discharge, or purported exercise, performance or discharge, of any power, function or duty conferred or imposed by this Act.

(2) A liability that would, but for subsection (1), lie against a person on whom an immunity is conferred by that subsection lies instead against the Crown.

Power to require information.

41. (1) The Commission or a local council may require a person to furnish such information relating to public or environmental health as it reasonably requires for the purposes of this Act.

(2) Subject to subsection (3), a person who fails to comply with a requirement under subsection (1) is guilty of an offence.

Penalty: $2 500.

(3) A person is not required to furnish information under subsection (1) if the information would tend to incriminate him or her.

Confidentiality.

42. Where a person, in the course of official duties, obtains—

(a) medical information relating to another;

or

(b) information the disclosure of which would involve the disclosure of information relating to the personal affairs of another,

the person shall not intentionally disclose that information unless—

(c) the disclosure is made in the course of official duties;

(d) the disclosure is made with the consent of the other person;

or

(e) the disclosure is required by a court or tribunal constituted by law.

Penalty: $2 000.

Manner of giving notice.

43. A notice required or authorized by this Act may be given or served—

(a) personally;

(b) by post;

or

(c) if the notice relates to premises and is to be served on an owner of those premises—by affixing the notice to a conspicuous part of the premises.

Reporting.

44. (1) Every local council shall, on or before the thirtieth day of September in each year, submit to the Council a report on the work of the local council under this Act during the financial year ending on the thirtieth day of June in that year, and the report must include, in respect of that financial year—

(a) a report on the standard of public and environmental health in the local council's area;

(b) details of the measures that the local council has taken under Part III.

(2) The Council shall, on or before the thirtieth day of October in each year, submit to the Commission—

(a) a report on the work of the Council under this Act during the financial year ending on the thirtieth day of June in that year;

and

(b) a copy of each report of a local council submitted to the Council under subsection (1).

(3) The Commission shall, on or before the thirty-first day of December in each year, submit to the Minister a report on the work of the Commission under this Act during the financial year ending on the thirtieth day of June in that year, and the report must include, in respect of that financial year a report on the standard of public and environmental health in the State generally and be accompanied by a copy of the Council's report.

(4) The Minister shall within 12 sitting days after the receipt of the two reports under subsection (3), cause a copy of each report to be laid before each House of Parliament.

Offences.

45. (1) The offences constituted by this Act are summary offences.

(2) Proceedings for an offence against this Act cannot be commenced except upon the complaint of—

(a) an authorized officer;

(b) a member of the staff of the Commission;

(c) the chief executive officer of a local council;

(d) a member of the police force;

or

(e) a person acting on the written authority of the Minister.

(3) Proceedings for an offence against this Act must be commenced within one year after the date on which the offence is alleged to have been committed.

(4) Where a person is convicted of an offence against this Act and after that conviction the act or omission of the person that constituted the offence continues, that person is guilty of a separate and further offence in respect of each day during which the act or omission continues.

Penalty: $100 for each separate and further offence.

Offences by bodies corporate.

46. Where a body corporate is guilty of an offence against this Act, each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the director could not by the exercise of reasonable diligence have prevented the commission of the offence by the body corporate.

Regulations.

47. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), those regulations may—

(a) provide for the removal or destruction of any object or substance that creates a risk to public health;

(b) prohibit, restrict or regulate the manufacture, possession or use of substances that may create a risk to public health;

(c) prohibit or restrict the construction of premises that may create a risk to public health;

(d) prohibit or regulate the keeping of animals of a particular class;

(e) authorize or require the taking of specified measures to prevent the occurrence or spread of any notifiable disease;

(f) require the furnishing of reports to the Commission relating to notifiable diseases;

(g) regulate the construction, installation, maintenance and operation, and provide for the inspection, of swimming pools, spa pools, waterslides, wave pools or any other similar structure designed for human use;

(h) prescribe standards that must be observed in relation to the installation and operation of septic tanks and common effluent drainage systems;

(i) provide for the provision of returns and information to the Commission or the Council by prescribed persons or persons of prescribed classes;

(j) on the recommendation of the Council, prescribe codes of practice that may be used by local councils as guides to assist in the administration of this Act;

(k) prescribe fees for the purposes of this Act;

(l) prescribe forms for the purposes of this Act;

(m) exempt, either absolutely or subject to prescribed conditions or limitations—

(i) persons or classes of persons;

(ii) areas of the State,

from this Act or specified provisions of this Act.

(n) prescribe penalties not exceeding $2 500 for breach of any regulation.

(3) Regulations made under subsection (2) *(d)* in relation to the keeping of animals may provide for—

(a) the nature and condition of land or buildings in which the animals may be kept;

(b) the inspection of any place where the animals are kept;

(c) the maximum number of animals that may be kept per unit area;

(d) the storage of animal food;

(e) the control of vermin;

(f) the disposal of wastes.

(4) A regulation may not be made under subsection (2) *(d)* unless the Governor is satisfied—

(a) that the regulation is reasonably necessary to prevent the transmission of disease from the animals to humans or to prevent insanitary conditions;

and

(b) that there has been reasonable consultation with the persons who would be directly affected by the regulation, or with their representatives.

(5) A regulation under this Act may incorporate or operate by reference to any code or standard prepared or approved by a body or authority referred to in the regulation.

(6) A regulation under this Act may be of general or limited application.

FIRST SCHEDULE

NOTIFIABLE DISEASES

Acquired Immune Deficiency Syndrome
AIDS—Related Complex
Amoeblasis
Ankylostomiasis
Anthrax
Arbovirus Infection
Atypical Mycobacterium Infection
Bacterial Meningitis
Brucellosis
Campylobacter Infection
Cholera
Congenital Rubella Syndrome
Diphtheria
Ebola Fever
Food Poisoning
Giardiasis
Gonococcal Ophthalmia Neonatorum
Gonorrhoea
Hepatitis A
Hepatitis B
Hepatitis Unspecified
Hydatid Disease
Lassa Fever
Lead Poisoning
Legionnaires Disease
Leprosy
Leptospirosis
Lymphadenopathy Syndrome
Malaria
Marburg Disease
Measles
Meningococcal Infection
Ornithosis
Paratyphoid Fever
Pertussis
Plague
Poliomyelitis
Q Fever
Rabies
Rubella
Salmonella Infection
Shigella Infection
Smallpox
Syphilis
Tetanus
Trachoma
Tuberculosis
Typhoid Fever
Typhus Fever
Vibrio Parahaemolyticus Infection
Yellow Fever
Yersinia Infection

SECOND SCHEDULE

CONTROLLED NOTIFIABLE DISEASES

Acquired Immune Deficiency Syndrome
AIDS—Related Complex
Anthrax
Cholera
Diphtheria
Ebola Fever
Hepatitis A
Hepatitis B
Lassa Fever
Leprosy
Lymphadenopathy Syndrome
Marburg Disease
Measles
Meningococcal Infection
Paratyphoid Fever
Plague
Poliomyelitis
Rabies
Salmonella Infection
Shigella Infection
Smallpox
Tuberculosis
Typhoid Fever
Typhus Fever
Yellow Fever

THIRD SCHEDULE

REPEAL OF CERTAIN ACTS AND TRANSITIONAL PROVISIONS

Repeal of certain Acts.

1. (1) The following Acts are repealed:

The Health Act, 1935

The Noxious Trades Act, 1943

The Venereal Diseases Act, 1947.

(2) The Governor may, by proclamation, suspend the repeal of specified provisions of the Health Act, 1935, until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

2. The following transitional provisions apply in relation to the repeal of the Health Act, 1935:

(a) a proclamation made by the Governor under the Health Act, 1935, declaring a disease to be an infectious disease or a notifiable disease and in force immediately before the repeal of the provisions of that Act providing for the making of the proclamation shall be deemed to be a prescription under this Act that the disease is a notifiable disease;

(b) a resolution passed by a local board of health under the Health Act, 1935, and in force immediately before the repeal of the provisions of that Act providing for the passing of the resolution shall be deemed to be a resolution passed pursuant to this Act by the local council that constituted that local board;

(c) where a county board of health was in existence immediately before the repeal of those provisions of the Health Act, 1935, that provide for county boards of health, the assets and liabilities of the county board shall be divided—

(i) by agreement, between the local councils in respect of which the county board was constituted;

or

(ii) if agreement cannot be reached by those local councils, according to the directions of the Minister of Local Government;

(d) all actions and proceedings which but for the repeal of provisions of the Health Act, 1935, could have been taken or commenced by an authorized officer or local board of health may be taken or commenced by an authorized officer or a local council;

(e) all actions and proceedings which before the repeal of provisions of the Health Act, 1935, had been taken or commenced by an authorized officer or local board of health under that Act may be continued in all respects by the authorized officer or a local council;

and

(f) the Council may require a local council to provide a report (in a form approved by the Council) on the sanitary condition of its area immediately before the repeal of any of the provisions of the Health Act, 1935.

3. The Acts Interpretation Act, 1915, shall, except to the extent of any inconsistency with the provisions of this schedule, apply to the repeal of the Acts referred to in clause 1.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 37 of 1987

An Act to amend the Building Act, 1971, the Cremation Act, 1891, the Drugs Act, 1908, the Housing Improvement Act, 1940, and the Local Government Act, 1934.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the "Statutes Amendment (Public and Environmental Health) Act, 1987".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Interpretation.

3. A reference in this Act to "the principal Act" is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART II
AMENDMENT OF BUILDING ACT, 1971

Insertion of new s. 61a.

4. The following section is inserted immediately after section 61 of the principal Act:

Special provision relating to the construction of buildings outside areas.

61a. Notwithstanding the other provisions of this Act, the regulations may:

(a) prohibit the construction of buildings of a specified class in a part of the State that is not within an area unless—

(i) plans of the proposed building have been submitted for approval by the South Australian Health Commission;

and

(ii) the South Australian Health Commission has signified that it is satisfied that adequate provision has been made for sanitation and for ventilation of the building;

and

(b) prescribe a penalty not exceeding $1 000 for non-compliance with the regulation.

PART III

AMENDMENT OF CREMATION ACT, 1891

Repeal of s. 2 and substitution of new section.

5. Section 2 of the principal Act is repealed and the following section is substituted:

Crematoria may be established.

2. Subject to this Act, a crematorium may be established if—

(a) the site and plans for the crematorium, and the apparatus to be used for cremation, are approved by the South Australian Health Commission;

and

(b) the crematorium is licensed in accordance with this Act.

Repeal of s. 10 and substitution of new section.

6. Section 10 of the principal Act is repealed and the following section is substituted:

Regulations.

10. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) The regulations may prescribe penalties not exceeding $200 for breach of any regulation.

(3) An offence constituted by the regulations is a summary offence.

(4) Proceedings for an offence against the regulations cannot be commenced except upon the complaint of a person acting on the written authority of the Chairman of the South Australian Health Commission.

PART IV

AMENDMENT OF DRUGS ACT, 1908

Amendment of s. 5—Interpretation.

7. Section 5 of the principal Act is amended—

(a) by striking out the definition of the "Central Board of Health";

and

(b) by inserting after the definition of "Government analyst" the following definition:

"the Health Commission" means the South Australian Health Commission:.

Amendment of s. 6—Health Commission to administer Act.

8. Section 6 of the principal Act is amended by striking out "the Central Board of Health" and substituting "the Health Commission".

9. Section 7 of the principal Act is amended by striking out "the Central Board of Health" twice occurring and substituting, in each case, "the Health Commission". Amendment of s. 7—Officers to be appointed under this Act.

10. Section 9 of the principal Act is amended— Amendment of s. 9—Appointment of analysts.

(a) by striking out from subsection (1) "the Central Board of Health" and substituting "the Health Commission";

and

(b) by striking out from subsection (3) "the Central Board of Health" and substituting "the Health Commission".

11. Section 17 of the principal Act is amended by striking out from subsection (1) "the Central Board of Health" and substituting "the Health Commission". Amendment of s. 17—Advisory committee.

12. Section 30a of the principal Act is amended by striking out subsection (4) and substituting the following subsection: Amendment of s. 30a—Employment of diseased persons in handling drugs.

(4) In this section—

"infectious disease" means a controlled notifiable disease under the Public and Environmental Health Act, 1987:

"loathsome disease" means a disease proclaimed by the Governor on the advice of the Health Commission as a loathsome disease.

13. Section 46 of the principal Act is amended by striking out "under the direction or in the proper and ordinary course of their duty of the Central Board of Health shall" and substituting "in the proper and ordinary course of their duty or under the direction of the Health Commission will". Amendment of s. 46—Immunity of health surveyors.

14. Section 52 of the principal Act is repealed. Repeal of s. 52.

15. Section 53 of the principal Act is amended by striking out "the Central Board of Health" and substituting "the Health Commission". Amendment of s. 53—Power of court to have drugs analysed.

16. Section 61a of the principal Act is amended by striking out from subsection (2) "the Central Board of Health" and substituting "the Health Commission". Amendment of s. 61a—Provision as to regulations.

PART V

AMENDMENT OF HOUSING IMPROVEMENT ACT, 1940

17. Section 4 of the principal Act is amended by striking out the definition of "local board". Amendment of s. 4—Interpretation.

18. Section 23 of the principal Act is amended— Amendment of s. 23—Power to declare houses unfit for habitation.

(a) by striking out "local board" wherever it occurs and substituting, in each case, "council";

and

(b) by striking out subsection (7) and substituting the following subsection:

(7) This section is in addition to, and not in derogation of, the powers of an authority acting under the Public and Environmental Health Act, 1987.

Amendment of s. 24—Appeal.

19. Section 24 of the principal Act is amended by striking out "local board" wherever it occurs and substituting, in each case, "council".

Amendment of s. 25—Power of housing authority.

20. Section 25 of the principal Act is amended—

(a) by striking out "local board" wherever it occurs and substituting, in each case, "council";

and

(b) by striking out "local boards" wherever it occurs and substituting, in each case, "councils".

Amendment of s. 27—Advances to owners.

21. Section 27 of the principal Act is amended by striking out from subsection (1) "local board" and substituting "council".

Amendment of s. 32—Power to acquire lands.

22. Section 32 of the principal Act is amended by striking out from subsection (1) "local board of" and substituting "council or".

Amendment of s. 35—Powers of housing authority as to demolition.

23. Section 35 of the principal Act is amended by striking out "local board" and substituting "council".

Amendment of s. 61—Orders for possession.

24. Section 61 of the principal Act is amended by striking out from paragraph *(h)* of subsection (1) ", a local board, the Central Board of Health" and substituting "the South Australian Health Commission".

Amendment of s. 64—Basis of compensation.

25. Section 64 of the principal Act is amended by striking out "or a local board".

Amendment of s. 66—Co-operation with departments and councils.

26. Section 66 of the principal Act is amended—

(a) by striking out from subsection (1) "any council or local board" and substituting "a council";

(b) by striking out from subsection (1) ", council or local board" and substituting "or council";

and

(c) by striking out from subsection (2) ", council, or local board," and substituting "or council".

Amendment of s. 67—Powers of entry and inspection.

27. Section 67 of the principal Act is amended by striking out "member of a local board or any officer of a local board or other person authorized by the local board" and substituting "officer of a council or other person authorized by a council".

Amendment of s. 68—Obstruction, etc., of officers, etc.

28. Section 68 of the principal Act is amended—

(a) by striking out "or a local board" (where it first occurs);

and

(b) by striking out "local board" and substituting "council".

Amendment of s. 69—Offences by occupiers and others.

29. Section 69 of the principal Act is amended by striking out from subsection (2) "local board" and substituting "council".

30. Section 71 of the principal Act is amended by striking out "local board" twice occurring and substituting, in each case, "council". Amendment of s. 71—Dispossession of occupiers failing to vacate premises when required to do so.

31. Section 75 of the principal Act is amended by striking out from paragraph *(b)* of subsection (1) "local board" and substituting "council". Amendment of s. 75—Proof of notices, orders or documents.

PART VI

AMENDMENT OF LOCAL GOVERNMENT ACT, 1934

32. Section 528 of the principal Act is amended by striking out "Central Board of Health" wherever it occurs and substituting, in each case, "South Australian Health Commission". Amendment of s. 528—Resolution of council for providing of bacteriolytic tanks.

33. Section 529 of the principal Act is amended by striking out from subsection (3) "the Health Act, 1935" and substituting "the Public and Environmental Health Act, 1987". Amendment of s. 529—Installation of bacteriolytic tanks.

34. Section 530a of the principal Act is amended by striking out "Central Board of Health" and substituting "South Australian Health Commission". Amendment of s. 530a—Provision of treatment unit in lieu of bacteriolytic tank.

35. Section 530b of the principal Act is amended by striking out "Central Board of Health" and substituting "South Australian Health Commission". Amendment of s. 530b—"All purpose" bacteriolytic tank.

36. Section 530c of the principal Act is amended by striking out "Central Board of Health" wherever it occurs and substituting, in each case, "South Australian Health Commission". Amendment of s. 530c—Sewerage effluent disposal schemes.

37. Sections 536a and 536b of the principal Act are repealed. Repeal of ss. 536a and 536b.

38. Section 537 of the principal Act is amended by striking out "Central Board of Health" and substituting "South Australian Health Commission". Amendment of s. 537—Charging of fees for sanitary services.

39. Sections 538, 539 and 540 of the principal Act are repealed. Repeal of ss. 538, 539 and 540.

40. Section 540a of the principal Act is amended by striking out subsection (4). Amendment of s. 540a—Penalty if smoke, dust, fumes, or gas from premises other than dwelling-houses amount to nuisance.

41. Division II of Part XXVI of the principal Act (and the heading to that Division) is repealed. Repeal of Division II of Part XXVI.

42. Section 595 of the principal Act is amended by striking out from subsection (1) "Central Board of Health" and substituting "South Australian Health Commission". Amendment of s. 595—Regulations.

43. Section 596 of the principal Act is amended by striking out "Central Board of Health" and substituting "South Australian Health Commission". Amendment of s. 596—Provisions applicable outside areas.

Amendment of s. 668—Passing of by-laws.

44. Section 668 of the principal Act is amended by striking out from paragraph *(b)* of subsection (2) "Central Board of Health" and substituting "South Australian Health Commission".

Amendment of s. 682—Power to make model by-laws.

45. Section 682 of the principal Act is amended by striking out from subsection (1) ", and whether as a council or as a local board of health or otherwise".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 38 of 1987

An Act to amend the Sewerage Act, 1929.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Sewerage Act Amendment Act, 1987".

(2) The Sewerage Act, 1929, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 13—Regulations.

3. Section 13 of the principal Act is amended—

(a) by inserting after paragraph VII. of subsection (1) the following paragraph:

VIIA. Empowering the Minister to release a person from, or defer, the obligation to pay part or all of an amount due under this Act or under an agreement made under this Act:;

and

(b) by inserting after subsection (2) the following subsection:

(2a) Charges or fees for the provision of works or services by the Minister fixed under this section shall not be invalid by reason of the fact that, in a particular case or class of case, the charges or fees so fixed (or the aggregate of those charges or fees where more than one is payable in respect of the same works or service) exceed the cost to the Minister of providing the works or service.

Repeal of ss. 43 and 44 and substituting of new section.

4. Sections 43 and 44 of the principal Act are repealed and the following section is substituted:

Minister may make agreements.

43. The Minister may, by agreement with the owner of land in a drainage area—

(a) execute drainage works on the land connecting the land to a sewer;

or

(b) lend money to the owner for the execution of such works.

Repeal of ss. 46, 47 and 48 and substitution of new section.

5. Sections 46, 47 and 48 of the principal Act are repealed and the following section is substituted:

Certain work may be carried out by owner.

46. (1) Where a person who has applied to the Minister for the extension of a sewer or the connection of land to a sewer (being work for which the amount prescribed by this Act is the cost of the work estimated by the Minister) is dissatisfied with the Minister's estimate, the applicant may, subject to this section, arrange for the work to be carried out by a competent person of his or her choice.

(2) Where—

(a) a person has applied to the Minister for the extension of a sewer to land that the applicant has divided, or proposes to divide, or for the connection of such land to a sewer;

(b) the regulations do not prescribe the amount, or the basis for determining the amount, payable for that work;

and

(c) the applicant is dissatisfied with the amount that the Minister wishes to charge for that work,

the applicant may, subject to this section, arrange for the work to be carried out by a competent person of his or her choice.

(3) Subsections (1) and (2) do not authorize the connection of the new work to the undertaking.

(4) The work must be designed by, or to the satisfaction of, the Minister and be carried out under the supervision, and to the satisfaction, of the Minister.

(5) The Minister will, at the request of the applicant, provide the applicant with plans and specifications of the proposed work.

(6) The applicant must pay the reasonable costs of the Minister for—

(a) designing the work;

(b) providing the necessary plans and specifications;

(c) connecting the work to the undertaking;

and

(d) supervising and inspecting the work,

but the applicant is not liable for any other charge or fee under this Act in respect of the work.

Amendment of s. 93—Amounts due to Minister to be a charge on the land.

6. Section 93 of the principal Act is amended by striking out from subsection (1) "or the regulations made hereunder" and substituting "and any amount payable to the Minister under an agreement to defer payment of an amount due under this Act".

Amendment of s. 94— Lands may be sold when rates, etc., in arrear.

7. Section 94 of the principal Act is amended by striking out from subsection (1) "Whenever any sewerage rates in respect of any land, or the cost of providing, laying down, constructing, and fixing in readiness for use such drains and fittings as are necessary for draining any land" and substituting "Where sewerage rates or any other sum that is, by virtue of section 93, a first charge upon land".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 39 of 1987

An Act to amend the Waterworks Act, 1932.

[*Assented to 23 April 1987*]

Short title.

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Waterworks Act Amendment Act, 1987".

Commencement.

(2) The Waterworks Act, 1932, is in this Act referred to as "the principal Act".

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 10—Regulations.

3. Section 10 of the principal Act is amended—

(a) by inserting after paragraph V of subsection (1) the following paragraph:

VA. empowering the Minister to release a person from, or defer, the obligation to pay part or all of an amount due under this Act or under an agreement made under this Act:;

and

(b) by inserting after subsection (2) the following subsection:

(2aa) Charges or fees for the provision of works or services by the Minister fixed under this section will not be invalid by reason of the fact that, in a particular case or class of cases, the charges or fees so fixed (or the aggregate of those charges or fees where more than one is payable in respect of the works or service) exceed the cost to the Minister of providing the works or service.

Repeal of s. 85.

4. Section 85 of the principal Act is repealed.

Amendment of s. 87—Recovery of money by Minister.

5. Section 87 of the principal Act is amended by inserting in subsection (1) "or under an agreement to defer payment of an amount due under this Act" after "under this Act" first occurring.

Amendment of s. 93—Recovery of amounts due to Minister.

6. Section 93 of the principal Act is amended by inserting in subsection (1) "or under an agreement to defer payment of an amount due under this Act" after "under this Act".

Amendment of s. 98—Power to sell land.

7. Section 98 of the principal Act is amended—

(a) by inserting after "water rates," in paragraph *(c)* of subsection (3) "charges,";

and

(b) by inserting after subsection (6) the following subsection:

(7) In this section—

"charges" includes any amount payable to the Minister under an agreement to defer payment of an amount due under this Act.

Insertion of new s. 109a.

8. The following section is inserted in Part VIII of the principal Act after section 109:

Certain work may be carried out by owner.

109a. (1) Where a person who has applied to the Minister for the extension of a main pipe or the connection of land to a main pipe (being work for which the amount prescribed by this Act is the cost of the work estimated by the Minister) is dissatisfied with the Minister's estimate, the applicant may, subject to this section, arrange for the work to be carried out by a competent person of his or her choice.

(2) Where—

(a) a person has applied to the Minister for the extension of a main pipe to land that the applicant has divided, or proposes to divide, or for the connection of such land to a main pipe;

(b) the regulations do not prescribe the amount, or the basis for determining the amount, payable for that work;

and

(c) the applicant is dissatisfied with the amount that the Minister wishes to charge for that work,

the applicant may, subject to this section, arrange for the work to be carried out by a competent person of his or her choice.

(3) Subsections (1) and (2) do not authorize the connection of the new work to the waterworks.

(4) The work must be designed by, or to the satisfaction of, the Minister and be carried out under the supervision, and to the satisfaction, of the Minister.

(5) The Minister will, at the request of the applicant, provide the applicant with plans and specifications of the proposed work.

(6) The applicant must pay the reasonable costs of the Minister for—

(a) designing the work;

(b) providing the necessary plans and specifications;

(c) connecting the work to the waterworks;

and

(d) supervising and inspecting the work,

but the applicant is not liable for any other charge or fee under this Act in respect of the work.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 40 of 1987

An Act to amend the Crown Proceedings Act, 1972.

[*Assented to 23 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Crown Proceedings Act Amendment Act, 1987".

(2) The Crown Proceedings Act, 1972, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 3—Arrangement of Act.

3. Section 3 of the principal Act is amended by striking out "PROCEEDINGS BY AND AGAINST THE CROWN" and substituting "CROWN PROCEEDINGS".

Repeal of heading and insertion of new heading.

4. The heading to Part II of the principal Act is repealed and the following heading is substituted:

CROWN PROCEEDINGS.

Amendment of s. 6—Service, etc.

5. Section 6 of the principal Act is amended by striking out from subsection (3) "Subject to the regulations" and substituting "Subject to this Act".

Insertion of new section.

6. The following section is inserted after section 7 of the principal Act:

Service of subpoenas, etc., on Ministers.

7a. (1) A subpoena or other process issued by a court, tribunal or other authority requiring a Minister of the Crown to appear before the court, tribunal, authority or some other person to give evidence of facts known to the Minister, or to produce documents possessed by the Minister, in his or her capacity as Minister, must be transmitted to the Crown Solicitor for service on the Minister.

(2) The Crown Solicitor must, upon receiving a subpoena or other process referred to in subsection (1), serve it on the Minister and provide proof of service to the court, tribunal or other authority.

(3) If the Crown Solicitor is unable to serve a subpoena or other process within a reasonable time, he or she must inform the court, tribunal or other authority of the reasons for not being able to effect service and, in that case, the court, tribunal or other authority may direct that service be effected by some other means.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 41 of 1987

An Act to amend the South Australian Health Commission Act, 1976, and the Transplantation and Anatomy Act, 1983, and to make a consequential amendment to the Health Act, 1935.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "South Australian Health Commission Act Amendment Act, 1987".

(2) The South Australian Health Commission Act, 1976, is in this Act referred to as "the principal Act".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of s. 3—Objects of this Act.

3. Section 3 of the principal Act is amended by striking out paragraph *(a)* and substituting the following paragraph:

(a) the provision of health care through a properly integrated network of hospitals and health centres;.

Amendment of s. 6—Interpretation.

4. Section 6 of the principal Act is amended—

(a) by striking out the definition of "board" and substituting the following definition:

"board", in relation to an incorporated hospital or incorporated health centre, means its board of directors:;

(b) by striking out the definitions of "Government health centre" and "Government hospital";

and

(c) by striking out the definitions of "incorporated health centre" and "incorporated hospital" and substituting the following definitions:

"incorporated health centre" means a health centre incorporated under this Act:

"incorporated hospital" means a hospital incorporated under this Act:.

Amendment of s. 8— Constitution of Commission.

5. Section 8 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsections:

(1) The Commission will consist of 5 members appointed by the Governor on the nomination of the Minister.

(1a) The Governor will appoint a member to be the Chairman and another member to be the Deputy Chairman of the Commission.;

(b) by striking out subsection (3) and substituting the following subsection:

(3) A member of the Commission may be appointed either on a full-time or a part-time basis but there must not be more than 2 full-time members at any one time.;

and

(c) by striking out "7" from paragraph *(a)* of subsection (4) and substituting "5".

Repeal of s. 9 and substitution of new section.

6. Section 9 of the principal Act is repealed and the following section is substituted:

Deputies.

9. (1) The Governor may appoint a suitable person to be a deputy to any member of the Commission.

(2) If a member of the Commission is absent from official duties the deputy appointed under subsection (1) may act as a member of the Commission.

(3) The Deputy Chairman will act as deputy to the Chairman only in the office of Chairman and a deputy appointed under subsection (1) will be the deputy to the Chairman in the Chairman's capacity as a member of the Commission.

Amendment of s. 11— Removal from, and vacation of office.

7. Section 11 of the principal Act is amended by striking out subsection (5).

Amendment of s. 14— Disclosure of interests.

8. Section 14 of the principal Act is amended—

(a) by striking out from subsection (2) "Penalty: $1 000";

and

(b) by inserting after subsection (2) the following subsection:

(3) A member of the Commission who contravenes or fails to comply with a requirement of this section is guilty of an offence.

Penalty: $2 000.

9. Section 15 of the principal Act is amended by striking out the word "general". Amendment of s. 15—Commission subject to control of the Minister.

10. Section 16 of the principal Act is amended by inserting after paragraph *(fa)* of subsection (1) the following paragraph: Amendment of s. 16—Functions of the Commission.

(fb) to ensure the proper allocation of resources between incorporated hospitals, incorporated health centres and health services established, maintained or operated by, or with the assistance of, the Commission;.

11. Section 17 of the principal Act is repealed and the following section is substituted: Repeal of s. 17 and substitution of new section.

17. (1) The Commission may delegate any of its powers or functions— Delegation.

(a) to a committee appointed by the Commission;

(b) to a member, officer or employee of the Commission;

or

(c) to any person holding or acting in an office or position specified in the instrument of delegation.

(2) The Commission should review each delegation at least once in each year.

(3) A delegation under this section—

(a) is revocable at will;

and

(b) does not derogate from the power of the Commission to act in any matter itself.

12. Section 19a of the principal Act is amended by striking out subsections (2), (3) and (4) and substituting the following subsection: Amendment of s. 19a—The Chief Executive Officer and Deputy Chief Executive Officer.

(2) The Chief Executive Officer and the Deputy Chief Executive Officer will not be Public Service employees.

13. Section 27 of the principal Act is amended by striking out subsection (3a) and substituting the following subsections: Amendment of s. 27—Incorporation.

(3a) An incorporated hospital will not be established to take over functions from any other body (apart from the Commission) unless—

(a) the other body consents to the establishment of the incorporated hospital and agreement has been reached between the Commission and the other body on the terms of the constitution under which the incorporated hospital is to operate;

or

(b) (i) the other body is declared under subsection (3b) to be a public hospital;

(ii) the Commission has approved the terms of the constitution under which the incorporated hospital is to operate;

and

(iii) the constitution does not allow for the appointment or nomination of a majority of the members of the board of the hospital by the Crown or a Minister, agency or instrumentality of the Crown.

(3b) Where—

(a) a body that provides health services derives the major proportion of its revenue from public funding;

and

(b) it is, in the Governor's opinion, appropriate that the services should be provided by an incorporated hospital,

the Governor may, by notice in the *Gazette*, declare that body to be a public hospital.

(3c) An incorporated hospital will not be established to take over functions from any other incorporated hospital or from an incorporated health centre pursuant to subsection (3a) *(b)*.

(3d) A notice under subsection (3b)—

(a) must be laid before both Houses of Parliament;

(b) may be disallowed by resolution of either House of Parliament in pursuance of a notice of motion given within 14 sitting days of the date on which the notice was laid before the House;

(c) takes effect—

(i) if no notice of motion for disallowance is given within that period—when the period for giving such notice expires;

(ii) if such a notice of motion is given—when the motion is defeated or is withdrawn or lapses.

(3e) The constitution of an incorporated hospital that is established to take over the functions of another body pursuant to subsection (3a) *(b)* must include, as far as is practicable, provisions similar to those of the constitution of the other body.

Amendment of s. 29—Management of hospital.

14. Section 29 of the principal Act is amended by striking out from subsection (1) "management" and substituting "directors".

Amendment of s. 29a—Disclosure of interest.

15. Section 29a of the principal Act is amended—

(a) by striking out from subsections (1) and (2) "of management".

(b) by striking out from subsection (2) "Penalty: $1 000";

and

(c) by inserting after subsection (2) the following subsection:

(3) A member of the board who contravenes or fails to comply with a requirement of this section is guilty of an offence.

Penalty: $2 000.

Insertion of new s. 29b.

16. The following section is inserted in Division I of Part III of the principal Act after section 29a:

Immunity of members of board.

29b. No liability attaches to a member of the board of an incorporated hospital for any act or omission by the member or the hospital in good faith and in the exercise, or purported exercise, of the member's or the hospital's powers or functions, or in the discharge, or purported discharge, of the member's or the hospital's duties under the hospital's constitution or this Act.

Amendment of s. 30—Officers and employees.

17. Section 30 of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) The following provisions govern the appointment or dismissal of a chief executive officer by the board of an incorporated hospital—

(a) where a majority of the members of the board are appointed by the Minister—the board must not appoint or dismiss a chief executive officer except with the approval of the Commission;

or

(b) in any other case—the board must consult the Commission before appointing or dismissing a chief executive officer.

Amendment of s. 36—Budget and staffing plans.

18. Section 36 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) Information furnished under subsection (2) must include all particulars required in the notice.

Repeal of s. 37.

19. Section 37 of the principal Act is repealed.

Amendment of s. 48—Incorporation.

20. Section 48 of the principal Act is amended by striking out subsection (3a) and substituting the following subsections:

(3a) An incorporated health centre will not be established to take over functions from any other body unless—

(a) the other body consents to the establishment of the incorporated health centre and agreement has been reached between the Commission and the other body on the terms of the constitution under which the incorporated health centre is to operate;

or

(b) (i) the other body is declared under subsection (3b) to be a public health centre;

(ii) the Commission has approved the terms of the constitution under which the incorporated health centre is to operate;

and

(iii) the constitution does not allow for the appointment or nomination of a majority of the members of the board of the health centre by the Crown or a Minister, agency or instrumentality of the Crown.

(3b) Where—

(a) a body that provides health services derives the major proportion of its revenue from public funding;

and

(b) it is, in the Governor's opinion, appropriate that the services should be provided by an incorporated health centre,

the Governor may, by notice in the *Gazette*, declare that body to be a public health centre.

(3c) An incorporated health centre will not be established to take over functions from any other incorporated health centre or from an incorporated hospital pursuant to subsection (3a) *(b)*.

(3d) A notice under subsection (3b)—

(a) must be laid before both Houses of Parliament;

(b) may be disallowed by resolution of either House of Parliament in pursuance of a notice of motion given within 14 sitting days of the date on which the notice was laid before the House;

(c) takes effect—

(i) if no notice of motion for disallowance is given within that period—when the period for giving such notice expires;

(ii) if such a notice of motion is given—when the motion is defeated or is withdrawn or lapses.

(3e) The constitution of an incorporated health centre that is established to take over the functions of another body pursuant to subsection (3a) *(b)* must include, as far as is practicable, provisions similar to those of the constitution of the other body.

Amendment of s. 50—Management of health centre.

21. Section 50 of the principal Act is amended—

(a) by striking out from subsection (1) "management committee" and substituting "board of directors";

and

(b) by striking out from subsections (2) and (3) "management committee" wherever it occurs and substituting, in each case, "board".

Amendment of s. 50a—Disclosure of interests.

22. Section 50a of the principal Act is amended—

(a) by striking out from subsections (1) and (2) "management committee" wherever it occurs and substituting, in each case, "board";

(b) by striking out from subsection (2) "Penalty: $1 000";

and

(c) by inserting after subsection (2) the following subsection:

(3) A member of the board who contravenes or fails to comply with a requirement of this section is guilty of an offence.

Penalty: $2 000.

Insertion of new s. 50b.

23. The following section is inserted in Division I of Part IV of the principal Act after section 50a:

Immunity of members of board.

50b. No liability attaches to a member of the board of an incorporated health centre for any act or omission by the member or the health centre in good faith and in the exercise, or purported exercise, of the member's or the health centre's powers or functions, or in the discharge, or purported discharge, of the member's or the health centre's duties under the health centre's constitution or this Act.

Amendment of s. 51—Officers and employees.

24. Section 51 of the principal Act is amended—

(a) by striking out from subsections (1) and (3) "management committee" wherever it occurs and substituting, in each case, "board";

and

(b) by inserting after subsection (2) the following subsection:

(2a) The following provisions govern the appointment or dismissal of a chief executive officer by the board of an incorporated health centre—

(a) where a majority of the members of the board are appointed by the Minister—the board must not appoint or dismiss a chief executive officer except with the approval of the Commission;

or

(b) in any other case—the board must consult the Commission before appointing or dismissing a chief executive officer.

Superannuation, accrued leave rights, etc.

25. Section 52 of the principal Act is amended by striking out from subsection (3) "the manjgement committee of the health centre and subject to such conditions as may be imposed by that committee" and substituting "the board of the health centre and subject to such conditions as may be imposed by the board".

Amendment of s. 56—Annual report.

26. Section 56 of the principal Act is amended by striking out from subsection (1) "management committee" and substituting "board".

Amendment of s. 57—Budget and staffing plans.

27. Section 57 of the principal Act is amended—

(a) by striking out from subsection (1) "management committee" wherever it occurs and substituting "board" in each case;

(b) by striking out from subsection (2) "a management committee" and substituting "the board of an incorporated health centre";

and

(c) by inserting after subsection (2) the following subsection:

(3) Information furnished under subsection (2) must include all particulars required in the notice.

Repeal of s. 57aa and substitution of new section.

28. Section 57aa of the principal Act is repealed and the following section is substituted:

By-laws.

57aa. (1) The board of an incorporated health centre may make, alter and repeal by-laws for all or any of the following purposes:

(a) to prohibit persons from trespassing on the grounds of the health centre;

(b) to define parts of the grounds of the health centre as prohibited areas and to prohibit persons from entering any part of any such prohibited area or to provide for the removal of persons from any such area;

(c) to prevent damage to the property, buildings or grounds of the health centre;

(d) to regulate the speed at which vehicles may be driven within the grounds of the health centre;

(e) to prohibit dangerous or careless driving of vehicles within the grounds of the health centre;

(f) to prescribe the routes to be followed by traffic within the grounds of the health centre;

(g) to prohibit or regulate the standing, parking or ranking of vehicles within the grounfs of the health centre and to provide for the removal of vehicles from the grounds;

(h) to require drivers of vehicles within the grounds of the health centre to comply with traffic directions;

(i) generally to regulate traffic of all kinds within the grounds of the health centre;

(j) to prohibit disorderly or offensive behaviour within the health centre or the grounds of the health centre;

(k) to regulate, restrict or prohibit the consumption of alcoholic liquor within the health centre or the grounds of the health centre;

(l) to prevent undue noise within the health centre or the grounds of the health centre;

(m) to prescribe any other matters necessary or expedient for the maintenance of good order, the protection of property of the health centre or the prevention of hindrance to, or interference with, any activities conducted within the health centre or its grounds;

and

(n) to prescribe fines not exceeding $50 for contravention of any by-law.

(2) Every by-law made under this section must be sealed with the seal of the health centre and submitted to the Commission for approval.

(3) Upon approval of a by-law made under this section, the by-law must be transmitted to the Governor for confirmation and, upon confirmation by the Governor, will come into force.

(4) In any proceedings relating to an offence against a by-law—

(a) an allegation in a complaint that any specified place is or was within the grounds of an incorporated health centre will be accepted as proved in the absence of proof to the contrary;

(b) an allegation in a complaint that a person named in the complaint was the owner of a vehicle referred to in the complaint will be accepted as proved in the absence of proof to the contrary;

(c) where it is proved that a vehicle was parked within the grounds of a health centre in contravention of a by-law, it will be presumed, in the absence of proof to the contrary, that the vehicle was so parked by the owner of the vehicle.

(5) Where it is alleged that a person has committed an offence against a by-law relating to vehicular traffic, or the parking of motor vehicles, within the grounds of an incorporated health centre, the board may cause to be served personally or by post upon that person a notice to the effect that he or she may expiate the offence by payment to the incorporated health centre of an amount specified in the notice (being an amoune fixed by the by-law) within a time specified in the notice and, if the offence is so expiated, no proceedings will be commenced in any court in respect of the alleged offence.

Repeal of s. 58 and substitution of new sections.

29. Section 58 of the principal Act is repealed and the following sections are substituted:

Provision where incorporated hospital or health centre fails in a particular instance to properly discharge its functions.

58. (1) Subject to subsection (3), where, in the opinion of the Commission, an incorporated hospital or incorporated health centre has failed in a particular instance properly to perform the functions for which it was established, the Commission may give such directions to the hospital or health centre as are necessary to remedy the failure.

(2) The board of the hospital or health centre must comply with the Commission's directions.

(3) The Commission must not give a direction under subsection (1) in relation to a nursing home for which the Commonwealth provides funding under the *Nursing Homes Assistance Act* 1974 of the Commonwealth.

Provision where incorporated hospital or health centre fails persistently to properly discharge its functions.

58a. (1) Where the board of an incorporated hospital or an incorporated health centre—

(a) contravenes, or fails to comply with, a provision of this Act or of its approved constitution;

or

(b) has, in the opinion of the Governor, persistently failed properly to perform the functions for which it was established,

the Governor may, by proclamation, remove all members of the board from office.

(2) The Governor may, by a proclamation under subsection (1) or a subsequent proclamation, appoint a person, on conditions determined by the Governor, to administer the hospital or health centre until the appointment of a new board.

(3) An administrator appointed under subsection (2) will have all the powers conferred on the board by this Act or by its approved constitution.

(4) The administrator must arrange for a new board of the hospital or health centre to be constituted within 4 months after the removal of the previous board and, for that purpose, the administrator may call a meeting to elect new members to the board.

Insertion of new s. 63a.

30. The following section is inserted after section 63 of the principal Act:

Conflict of interest.

63a. (1) If a conflict or possible conflict arises between a health employee's private interests and the duties of his or her employment, the health employee—

(a) must, as soon as practicable after becoming aware of the conflict or possible conflict, report the matter to the appropriate authority;

and

(b) must not act further in the matter from which the conflict or possible conflict arises except as authorized by the appropriate authority.

(2) A health employee who contravenes or fails to comply with a requirement of subsection (1) is guilty of an offence.

Penalty: $2 000.

(3) In this section—

"appropriate authority", in relation to a health employee, means—

(a) the employee's employer;

or

(b) some person authorized by the employer to act as the appropriate authority under this section:

"health employee" means an officer or employee of the Commission, an incorporated hospital or incorporated health centre.

Amendment of s. 64—Duty to maintain confidentiality.

31. Section 64 of the principal Act is amended by striking out "Penalty: $2 000 or imprisonment for 6 months" and substituting "Penalty: $5 000".

Insertion of new s. 64d.

32. The following section is inserted after section 64c of the principal Act:

Authorization of research into mortality and morbidity.

64d. (1) The Governor may authorize a person, or a class of persons, to conduct research into the causes of mortality and morbidity in the State.

(2) Confidential information relating to any patient may be disclosed to a person so authorized and, with the approval of the person authorized, to any person assisting in that research, without breach of any law or any principle of professional ethics.

(3) A person shall not divulge confidential information obtained in the course of research authorized under this section except to another person to whom information may be disclosed under this section.

Penalty: $5 000.

Amendment of s. 66—Regulations.

33. Section 66 of the principal Act is amended by inserting after paragraph *(e)* of subsection (2) the following paragraph:

(ea) provide for the reporting of cases of specified diseases and disabilities to the Commission;.

Amendment of Health Act, 1935.

34. Part IXc of the Health Act, 1935, is repealed.

Amendment of Transplantation and Anatomy Act, 1983.

35. The Transplantation and Anatomy Act, 1983, is amended by striking out from section 6 and subsection (4) of section 24 "the Director-General of Medical Services or his delegate" and substituting, in each case, "the South Australian Health Commission or its delegate."

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

FAIR TRADING ACT, 1987

No. 42 of 1987

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SCHEDULE.

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 42 of 1987

An Act to provide for the appointment and powers and functions of the Commissioner for Consumer Affairs, to make provision in respect of certain unfair or undesirable trade practices, and for other purposes.

[*Assented to 7 May 1987*]

The Parliament of South Australia enacts as follows:

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the "Fair Trading Act, 1987".

Commencement.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Interpretation.

3. (1) In this Act, unless the contrary intention appears—

"auction" means a sale at which prospective purchasers are invited to bid and includes a sale at which bids are suggested and the suggested amounts progressively reduced until a bid is actually made:

"auctioneer" means the person by whom an auction is conducted:

"authorized officer" means a person who is an authorized officer under section 7:

"business" includes a trade or profession:

"the Commissioner" means the Commissioner for Consumer Affairs:

"consumer" means a person who—

(a) acquires, or proposes to acquire, goods or services;

or

(b) purchases or leases, or proposes to purchase or lease, premises,

not being a person acting in the course of a business or in the course of setting up a business:

"consumer affairs authority" means—

(a) the Commissioner;

or

(b) a person or authority that has, under a law of the Commonwealth or another State or Territory of the Commonwealth, powers and functions similar to those of the Commissioner:

"credit" includes any form of financial accommodation:

"goods" includes anything growing on, or attached to, land that is severable from the land:

"premises" includes land:

"related Act" means an Act or a provision of an Act—

(a) of which the Commissioner is stated, in that Act, to have the administration;

or

(b) that is prescribed by the regulations to be a related Act:

"rescission", in relation to a contract, means the avoidance of the contract as from its beginning:

"retail" connotes a sale of goods to the ultimate consumer or user of the goods:

"services" includes benefits of any kind except—

(a) the supply of goods;

or

(b) an interest in, or right in respect of, land:

"supplier", in relation to a contract or proposed contract for the supply of goods or services, means the person by whom the goods or services are, or are to be, supplied under the contract or proposed contract:

"supply" includes—

(a) in relation to goods, the conferral of a right to goods or a right to the possession or use of goods;

and

(b) in relation to services, the conferral of a right to services:

"trade premises", of a supplier, means premises that constitute an established place of business of the supplier, or an agent of the supplier:

"trader" means a person who in the course of a business—

(a) supplies, or offers to supply, goods or services;

or

(b) sells or lets, or offers to sell or let, premises:

"trading debt" means a debt owed to a trader:

"the Tribunal" means the Commercial Tribunal.

(2) In this Act, a reference to the supply of goods or services extends to the supply of both goods and services.

(3) A reference in this Act to a person involved in a contravention of a provision of this Act is a reference to a person who—

(a) aids, abets, counsels or procures the contravention;

(b) induces (by threats, promises or in any other manner) a person to commit the contravention;

(c) conspires to effect the contravention;

or

(d) is in any other way directly or indirectly, knowingly concerned in, or party to, the contravention.

(4) Where a word or phrase is given a particular meaning in this Act, any cognate word or phrase has, unless the contrary intention appears, a corresponding meaning.

Crown bound.

4. This Act binds the Crown in right of the State and also, so far as the legislative power of the State extends, in all its other capacities.

PART II

ADMINISTRATION

Commissioner for Consumer Affairs.

5. (1) There shall be a Commissioner for Consumer Affairs.

(2) The Commissioner shall be a person employed in the Public Service of the State.

Administration of this Act.

6. (1) The Commissioner has the administration of this Act.

(2) In the administration of this Act, the Commissioner is subject to direction by the Minister.

Authorized officers.

7. (1) The following persons are authorized officers for the purposes of this Act:

(a) the Commissioner;

and

(b) any person appointed under subsection (2).

(2) The Minister may, on the recommendation of the Commissioner, appoint persons employed in the Public Service of the State to be authorized officers for the purposes of this Act.

Functions of the Commissioner.

8. (1) The functions of the Commissioner are—

(a) to conduct research into matters concerning the interests of consumers generally or a particular class of consumers;

(b) to conduct consumer education programmes and to publish reports and disseminate information on matters concerning the interests of consumers;

(c) to give advice to consumers in relation to their rights and obligations under this Act or any other law, or in relation to transactions entered into by them as consumers;

(d) to attempt to resolve by conciliation disputes between consumers and traders;

(e) to monitor business activities (to which this Act and the related Acts apply) that affect consumers and investigate practices that may adversely affect the interests of consumers generally or a particular class of consumers;

(f) to encourage trade, industry and professional associations to develop, disseminate to their members and enforce codes of practice designed to promote fair trading and to safeguard the interests of consumers;

(g) to prepare and disseminate guidelines to traders in relation to their obligations under this Act and related Acts;

(h) to enforce the requirements of this Act and related Acts by the prosecution of offences and other appropriate action;

(i) to make reports to the Minister on matters referred to the Commissioner by the Minister and on the exercise of the functions of the Commissioner;

and

(j) any other functions conferred on the Commissioner by or under this or any other Act.

(2) The Commissioner shall not attempt to resolve a dispute by conciliation except—

(a) at the request or with the consent of the consumer;

or

(b) at the request of a court, board or tribunal in which proceedings have been taken in relation to the dispute.

Co-operation.

9. The Commissioner may, in the interests of consumers, co-operate with public or private bodies or persons within or outside the State.

Delegations.

10. (1) The Commissioner may delegate to a person employed in the Public Service of the State or, with the Minister's consent, to a person not so employed any of the Commissioner's powers under this Act or a related Act.

(2) The Minister may delegate any of the Minister's powers under this Act.

(3) A delegation under this section—

(a) must be in writing;

(b) may be made subject to such conditions as the delegator thinks fit;

(c) if made to the holder of a specified office or position, empowers any person for the time being holding or acting in that office or position to exercise the delegated powers;

(d) is revocable at will;

and

(e) does not prevent the delegator from acting personally in any matter.

Secrecy.

11. A person shall not divulge or communicate information acquired by reason of being, or having been, employed or engaged in, or in connection with, the administration of this Act or a related Act, except—

(a) with the consent of the person to whom the information relates;

(b) in connection with the administration of this Act or a related Act;

(c) to a member of the police force of this State or of the Commonwealth or another State or a Territory of the Commonwealth;

(d) to a person concerned in the administration of another law of the State, or a law of the Commonwealth or another State or a Territory of the Commonwealth, relating to trade or commercial practices or the protection of consumers;

or

(e) for the purposes of legal proceedings.

Penalty: $10 000.

Annual report.

12. (1) The Commissioner shall, on or before 31 October in each year, submit to the Minister a report on the administration of this Act during the year ended on the preceding 30 June.

(2) The Minister shall cause a copy of the report to be laid before each House of Parliament within 14 sitting days of that House after receiving the report.

PART III

DOOR-TO-DOOR TRADING

DIVISION I—PRELIMINARY

Interpretation.

13. (1) In this Part, unless the contrary intention appears—

"contract to which this Part applies" means a contract to which this Part applies by virtue of section 14:

"cooling-off period", in relation to a prescribed contract, means the period of 10 days commencing on and including the day on which the contract is made:

"dealer" means a person who in the course of door-to-door trading—

(a) enters into negotiations with another person with a view to the making of a contract for the supply of goods or services to that other person;

or

(b) calls on another person for the purpose of entering into such negotiations,

whether or not that person is or is to be the supplier of the goods or services:

"door-to-door trading" means the trading practice under which—

(a) a person—

(i) goes from place to place;

or

(ii) makes telephone calls,

seeking out persons who may be prepared to enter, as consumers, into contracts for the supply of goods or services;

and

(b) that person or some other person then or subsequently enters into negotiations with those prospective consumers with a view to the making of such contracts:

"negotiation" includes any discussion or dealing directed towards the making of a contract (whether or not the terms of the contract are open to negotiation):

"prescribed contract" has the meaning assigned by section 16:

"related contract or instrument", in relation to a contract to which this Part applies, means—

(a) a contract of guarantee or indemnity that is related to the contract;

(b) an instrument related to the contract that creates a mortgage or charge in favour of the supplier or dealer, or a person nominated by the supplier or dealer;

or

(c) any other contract or instrument (not being an instrument of the kind referred to in paragraph *(b)*) that is collateral or related to the contract.

(2) In this Part—

(a) a reference to the consumer or supplier under a contract for the supply of goods or services extends to any person to whom the rights of the original consumer or supplier under the contract are assigned or transferred, or pass by operation of law;

and

(b) a reference to negotiation of a contract to which this Part applies is a reference to negotiation of a contract that would, on its formation, be a contract to which this Part applies.

(3) For the purposes of this Part, a contract is a contract for the supply of goods or services to a person (being a party to the contract) if it provides for the supply of goods or services either to that person or to some other person but on the order of that person.

Application.

14. (1) Subject to this section, this Part applies to a contract for the supply of goods or services to a consumer (whether or not the law of South Australia is the proper law of the contract) if the following conditions are satisfied:

(a) negotiations leading to the formation of the contract (whether or not they are the only negotiations that precede the formation of the contract) take place between the consumer and a dealer in each other's presence in South Australia at a place other than trade premises of the supplier;

(b) the dealer attends at that place—

(i) in the course of door-to-door trading; and

(ii) otherwise than at the unsolicited invitation of the consumer.

(2) For the purposes of subsection (1) *(b)*—

(a) in determining whether an invitation is solicited or unsolicited, any solicitation by way of—

(i) printed or written material delivered but not addressed personally to the consumer;

or

(ii) advertisement addressed to the public or a substantial section of the public,

shall be disregarded;

but

(b) except as provided in paragraph *(a)*, where an invitation arises from a communication initiated by the supplier or dealer, or a person acting on behalf of the supplier or dealer, the invitation shall not be regarded as unsolicited.

(3) This Part does not apply to a contract of a kind excluded by the regulations from the application of this Part.

(4) This Part does not derogate from section 552 of the *Companies (South Australia) Code.*

Division II—Contracts

Prohibition of certain contractual terms.

15. (1) A contract to which this Part applies must not contain—

(a) a provision purporting to provide that the contract, or any proceeding arising from the contract, is governed by the law of a place other than South Australia;

(b) a provision purporting to provide that legal proceedings arising out of, or in relation to, the contract are justiciable only by the courts of a place other than South Australia;

or

(c) a provision purporting to exclude, restrict or modify any right conferred on a consumer by this Part.

(2) Where a contract to which this Part applies contains a provision contrary to subsection (1), the provision is void and the supplier and the dealer are each guilty of an offence.

Penalty: $5 000.

(3) In this section, "contract to which this Part applies" includes a related contract or instrument.

Prescribed contract.

16. (1) Subject to this section, a contract to which this Part applies is a prescribed contract if the total consideration payable by the consumer under, or in respect of, the contract—

(a) is not ascertainable at the time of the making of the contract;

or

(b) is ascertainable at the time of the making of the contract and exceeds the prescribed amount.

(2) Where—

(a) two or more contracts relate to substantially the same transaction;

and

(b) the transaction could have been effected by a single contract which would, in that case, have constituted a prescribed contract,

then each of the contracts that would not, if it stood alone, constitute a prescribed contract becomes a prescribed contract and, for the purpose of ascertaining the cooling-off period in relation to such a contract, it shall be deemed to have been made when the last of the contracts was made.

(3) The following are not prescribed contracts:

(a) a contract of insurance;

(b) a contract solely for the provision of credit;

(c) a contract of a kind declared by the regulations not to be a prescribed contract.

(4) In proceedings in which it is alleged that a contract for the supply of goods or services is a prescribed contract, the contract shall be presumed to be such a contract in the absence of proof to the contrary.

(5) In this section, "the prescribed amount" means $50 or, if another amount is prescribed in the regulations, that other amount.

Requirements in relation to prescribed contracts.

17. (1) The following requirements must be complied with in relation to a prescribed contract:

(a) the contract must set out in full all the contractual terms, including—

(i) the total consideration to be paid or provided by the consumer or, if the total consideration is not ascertainable at the time the contract is made, the manner in which it is to be calculated;

and

(ii) if the contract provides for the carrying out of work of a prescribed nature—detailed particulars of the work (including any such particulars required by the regulations);

(b) the contractual terms must be printed or typewritten (apart from any insertions or amendments to the printed or typewritten form, which may be handwritten);

(c) the making of the contract must be completed by the consumer signing the contract after it has already been executed by or on behalf of the supplier;

(d) the consumer must be given a duplicate of the contract immediately after the making of the contract;

(e) where the dealer is not the supplier, the contract must set out the full name and address of the dealer and identify that person as the dealer;

(f) the contract must contain immediately above the place provided for the signature of the consumer the statement "THIS CONTRACT IS SUBJECT TO A COOLING-OFF PERIOD OF TEN DAYS" printed in upper case in type not smaller than 18-point;

(g) the consumer must be given two notices at or immediately before the making of the contract—

(i) one being a notice, in the prescribed form, explaining the right of the consumer to rescind the contract;

and

(ii) the other being a notice, in the prescribed form, that may be used by the consumer to rescind the contract;

(h) the notices referred to in paragraph *(g)* must—

(i) be printed or typewritten (apart from any insertion, which may be handwritten);

(ii) set out the full name and address of the supplier and identify that person as the supplier;

and

(iii) be separate from, and not attached to, any other document;

(i) the printing or typewriting of the contract, the statement referred to in paragraph *(f)* and the notices referred to in paragraph *(g)*, must be readily legible and conform with the requirements of the regulations;

(j) any handwriting (apart from a signature or initial) in the contract or a notice referred to in paragraph *(g)* must be readily legible.

(2) If any of the requirements of subsection (1) is not complied with, the supplier and the dealer are each guilty of an offence.

Penalty: $5 000.

(3) Where a consumer acknowledges, in writing, receipt of a document required to be given under subsection (1), the acknowledgement is evidence, but not conclusive evidence, that the document was given to the consumer as required by that subsection.

Acceptance of consideration, etc.

18. (1) If a supplier or dealer accepts any money or other consideration from a consumer under a prescribed contract or a related contract or instrument before the expiration of the cooling-off period, the supplier and the dealer are each guilty of an offence.

Penalty: $5 000.

(2) Subject to subsection (3), if services are supplied under a prescribed contract before the expiration of the cooling-off period, the supplier is guilty of an offence.

Penalty: $5 000.

(3) Subsection (2) does not apply to the supply of services of a kind excluded by the regulations from the application of that subsection.

DIVISION III—DOOR-TO-DOOR TRADING PRACTICES

Prohibition hours.

19. Except by prior appointment, no dealer shall call on a person—

(a) at any time on a Sunday or a public holiday;

(b) on a Saturday—

(i) between midnight and 9.00 a.m.;

or

(ii) between 5.00 p.m. and midnight;

(c) on any other day—

(i) between midnight and 9.00 a.m.;

or

(ii) between 8.00 p.m. and midnight,

for the purpose of negotiating a contract to which this Part applies or for an incidental or related purpose.

Penalty: $5 000.

Duties of dealers.

20. (1) A dealer who calls at premises for the purpose of negotiating a contract to which this Part applies or for an incidental or related purpose shall leave the premises at the request of the occupier of the premises or any person acting with the actual or implied authority of the occupier.

Penalty: $5 000.

(2) A dealer who calls on a person for the purpose of negotiating a contract to which this Part applies or for an incidental or related purpose shall, as soon as it is practicable to do so—

(a) make known to that person the purpose of the call;

and

(b) produce to that person an identity card setting out—

(i) the dealer's full name and address;

and

(ii) if the dealer is not the supplier, the supplier's full name and address.

Penalty: $5 000.

Harassment or coercion.

21. (1) No dealer or other person shall, for the purpose of, or in the course of, negotiating a contract to which this Part applies, harass or coerce a consumer.

Penalty: $5 000.

(2) No dealer or other person shall harass or coerce a consumer for the purpose of dissuading or preventing the consumer from exercising a right conferred on the consumer by this Part.

Penalty: $5 000.

DIVISION IV—RESCISSION OF CONTRACTS

Right of rescission.

22. (1) A consumer may rescind a contract to which this Part applies (whether or not the contract is a prescribed contract) within 6 months of the date of the contract—

(a) if the contract or a related contract or instrument contains a provision contrary to section 15;

or

(b) if the supplier or a dealer commits an offence against Division III in the course of, or in relation to, the negotiations leading to the formation of the contract.

(2) A consumer may rescind a prescribed contract—

(a) at any time before the expiration of the cooling-off period;

or

(b) if there has been a failure to comply with any of the requirements of section 17 (1) in relation to the contract—within 6 months of the date of the contract.

(3) A right of rescission conferred by this section may be exercised—

(a) notwithstanding affirmation of the contract by the consumer;

and

(b) notwithstanding that the contract has been fully executed.

Exercise of right of rescission.

23. (1) A consumer exercises a right of rescission conferred by this Division by giving notice of rescission to the supplier.

(2) The notice of rescission—

(a) must be in writing in the form prescribed by the regulations or in a form that clearly indicates an intention on the part of the consumer to rescind the contract;

(b) must (except in the case of a notice given in respect of a prescribed contract during the cooling-off period) state the ground of rescission;

and

(c) must be given to the supplier—

(i) by delivering it personally to the supplier;

or

(ii) by delivering it, or sending it by post, in an envelope addressed to the supplier, to the supplier's address.

(3) A notice of rescission sent by post to a supplier in accordance with subsection (2) shall be deemed to have been given to the supplier at the time of posting.

(4) In this section, a reference to the supplier's address is a reference to—

(a) a place at which the supplier resides or carries on business;

or

(b) the supplier's address as shown on a notice given to the consumer under this Part.

Restitution.

24. (1) Where a contract to which this Part applies is rescinded under this Division, restitution shall be made by the parties to the contract as follows—

(a) the supplier shall return or refund to the consumer any consideration or the value of any consideration given by the consumer under the contract or a related contract or instrument;

(b) the consumer shall—

(i) return or refund to the supplier any goods or the value (as at the date of supply) of any goods received from the supplier under the contract;

and

(ii) pay to the supplier the value of any services supplied under the contract up to the time of rescission (but not including the value of any such services supplied under a prescribed contract before the expiration of the cooling-off period in contravention of this Part).

(2) Where the consumer makes goods available for collection by the supplier at the place at which they were received from the supplier for the period of 28 days from the date of rescission of the contract and the supplier fails to collect the goods before the expiration of that period, the consumer shall be deemed to have made restitution in respect of those goods as required by subsection (1) and the goods shall become the property of the consumer free of any other right or interest.

(3) Where the consumer returns goods to the supplier under this section but has failed to take reasonable care of the goods, the consumer is liable to pay compensation to the supplier for the damage to or depreciation in the value of the goods, but the consumer is not liable for any such damage or depreciation attributable to normal use of the goods or circumstances beyond the control of the consumer.

(4) Where restitution of goods is not possible (because the goods have been consumed or affixed to land, because a third party has acquired an interest in the goods, or for any other reason), the impossibility of restitution of the goods is not a bar to rescission under this Division but, in that event, the consumer is liable to pay to the supplier the value of the goods as at the date of supply.

(5) The obligations imposed by this section may be enforced by action in any court of competent jurisdiction.

(6) A court convicting a supplier of an offence against this Part is competent to make orders, on the application of the prosecutor, for the enforcement of obligations imposed by this section.

(7) A person who fails to comply with an order under subsection (6) is guilty of an offence.

Penalty: $5 000.

Related contracts or instruments.

25. Where a contract to which this Part applies is rescinded under this Division, any related contract or instrument is void.

Waiver of rights.

26. The consumer under a contract to which this Part applies is not competent to waive any right conferred by this Division.

Prohibition of certain actions.

27. (1) Where a contract to which this Part applies has been rescinded, or is capable of being rescinded, under this Division, no person shall, for the purpose of recovering an amount alleged to be payable by the consumer under the contract or a related contract or instrument—

(a) bring, or assert an intention to bring, legal proceedings against the consumer;

(b) place the name of the consumer, or cause the name of the consumer to be placed, on any list of defaulters or debtors, or assert an intention of placing the name of the consumer, or causing the name of the consumer to be placed, on any such list;

or

(c) take any other action against the consumer.

Penalty: $5 000.

(2) Subsection (1) *(a)* does not prohibit—

(a) the bringing of, or the asserting of an intention to bring, legal proceedings to determine whether or not a contract to which this Part applies has been, or is capable of being, rescinded under this Division;

or

(b) the continuation of such proceedings (for the purpose of recovering an amount alleged to be payable by the consumer under the contract or a related contract or instrument) where it is determined that the contract has not been, or is not capable of being, so rescinded.

(3) It is a defence to a charge for an offence against subsection (1) to prove that, at the time of the alleged offence, the defendant did not know, and could not reasonably be expected to have known, that the contract had been rescinded or was capable of being rescinded.

(4) Where a person is convicted of an offence against subsection (1) *(b)*, the court may order the person responsible for keeping any list on which the name of the consumer has been wrongfully placed to remove the name from that list.

(5) A person who fails to comply with an order under subsection (4) is guilty of an offence.

Penalty: $5 000.

PART IV

MOCK AUCTIONS

Prohibition of mock auctions.

Cf. Mock Auctions Act, 1972.

28. (1) A person shall not promote or conduct a mock auction of goods.

Penalty: $2 000.

(2) Subject to subsection (3), an auction of goods is a mock auction if, but only if, during the course of the auction—

(a) goods are sold for less than the highest bid made by the purchaser, or part of the purchase price is repaid or credited to the purchaser;

(b) the right to bid for any goods is restricted to persons who have bought or agreed to buy other goods;

or

(c) any goods are given away or offered as gifts.

(3) An auction of goods is not a mock auction by virtue of subsection (2) *(a)*, if it is proved that the reduction in price or the repayment or credit (as the case may be) was made—

(a) because of a defect of which the auctioneer became aware after the highest bid had been made;

or

(b) because of damage sustained after that bid was made.

(4) For the purposes of proceedings for an offence against this section—

(a) a statement, purporting to be a statement of fact, made by or on behalf of the auctioneer during the course of an auction of goods and tending to show that the auction is a mock auction is admissible as conclusive evidence of the fact stated;

and

(b) anything done, before or after an auction, in or about the place where the auction has been or is to be held, if done in connection with the auction, shall be taken to be done during the course of the auction.

PART V

FAIR REPORTING

Interpretation. Cf. Fair Credit Reports Act, 1974, s. 4.

29. (1) In this Part, unless the contrary intention appears—

"file" means any repository or record in which information relating to any person is recorded or retained, in any manner or form, by a reporting agency:

"prescribed benefit" means—

(a) a benefit of a commercial nature;

(b) a benefit in or affecting employment;

or

(c) a lease of premises or a licence conferring a right to occupy premises:

"prescribed report" means a communication made to a trader by a reporting agency or another trader of information relating to a person, not being a communication made with the knowledge of, and of information known to, that person:

"reporting agency" means a person that carries on the business of providing prescribed reports.

(2) For the purposes of this Part, where a prescribed report consists of a communication by electronic or mechanical means (except by telephone or other means of voice transmission) the report shall be regarded as being written.

Application of Part.
Cf. Fair Credit Reports Act, 1974, s. 5.

30. This Part applies to and in relation to a reporting agency or trader where—

(a) the reporting agency or trader provides a prescribed report to a person carrying on a business or letting premises in the State;

and

(b) the person to whom the report relates is domiciled or resident in the State.

Procedures in respect of prescribed reports.
Cf. Fair Credit Reports Act, 1974, s. 6.

31. (1) A reporting agency or trader shall adopt all procedures reasonably practicable for ensuring accuracy and fairness in the contents of prescribed reports provided by the agency or trader.

(2) A reporting agency or trader shall not include in any prescribed report—

(a) any information based on evidence that is not the best evidence reasonably available;

or

(b) any unfavourable personal information based upon hearsay evidence unless the agency or trader has made reasonable efforts to substantiate the evidence on which the personal information is based and, where the information is unsubstantiated, the lack of substantiation is stated in any report in which the information is given.

(3) A reporting agency or trader shall not include in any prescribed report information as to the race, colour or religious or political belief or affiliation of any person.

Duties of traders.
Cf. Fair Credit Reports Act, 1974, s. 7.

32. Where a trader—

(a) denies a prescribed benefit sought by a person;

or

(b) grants a prescribed benefit sought by a person but upon terms less favourable than those upon which the trader grants similar benefits to other persons in the course of the trader's business,

and the trader has during the last preceding 6 months received a prescribed report in relation to that person, the trader shall at the written request of that person—

(c) inform the person that the trader has received that report;

and

(d) give the person the name and address of the reporting agency or other trader who provided that report.

Duties of reporting agencies.
Cf. Fair Credit Reports Act, 1974, s. 8.

33. (1) A reporting agency shall, on the written application of a person in relation to whom the agency has recorded information, disclose without charge—

(a) all information in its files relating to that person at the time of the request;

(b) the name and address of every person to whom a prescribed report relating to that person has been provided within the year preceding the date of the request;

and

(c) a copy of every such prescribed report that was in writing.

(2) A reporting agency may require any person seeking disclosure of information under this section to produce reasonable evidence of the person's identity.

(3) A reporting agency shall take reasonable steps to ensure that information to which a person is entitled under this section is disclosed in a form that is readily intelligible to that person and shall permit that person to make a copy of, or to take an extract from, the information so disclosed.

(4) A reporting agency shall not require a person to give any undertaking, or to waive any right that the person may have, as a condition of disclosing information under this section.

Correction of errors.
Cf. Fair Credit Reports Act, 1974, s. 9.

34. (1) A person who disputes the accuracy or completeness of any information compiled by a reporting agency in relation to the person or included in a prescribed report relating to the person provided by a reporting agency or trader may, by notice in writing served upon the agency or trader, object to the inaccuracy or incompleteness of the information.

(2) Where, pursuant to subsection (1), a person disputes the accuracy or completeness of any information, the reporting agency or trader shall, within a reasonable time, use its best endeavours to verify or supplement the information in accordance with good practice.

(3) A reporting agency or trader upon whom a notice of objection is served under this section shall, within 30 days after the date of service of the notice, inform the person by whom the objection was made—

(a) whether the agency or trader has made any amendment or supplementation to or deletion from the information;

and

(b) if so, the nature of the amendment, supplementation or deletion.

(4) Where information is altered under this section by amendment, supplementation or deletion, the following provisions apply:

(a) where a reporting agency makes such an alteration, the agency shall give notice in writing of the alteration to—

(i) every person provided by the agency with a prescribed report based on the information within the period of 60 days before the making of the alteration;

and

(ii) every person provided by the agency with such a prescribed report before the commencement of that period and nominated by the person to whom the information relates;

(b) where a trader makes such an alteration, the trader shall give notice in writing of the alteration to every person provided by

the trader with a prescribed report based on the information and nominated by the person to whom the information relates.

(5) A person by whom an objection has been made under this section may appeal to the Tribunal against any failure on the part of a reporting agency or trader to make any deletion from or amendment or supplementation to information.

(6) Upon the hearing of an appeal under this section, the Tribunal may make such orders as it considers just.

(7) Where an objection or appeal has been made or instituted under this section and a prescribed report is made by the reporting agency or trader before the determination by the agency or trader or by the Tribunal of the matters raised in the objection or appeal, the agency or trader shall include in the report a statement to the effect that those matters are subject to an objection or appeal under this Part.

Qualified privilege. Cf. Fair Credit Reports Act, 1974, s. 10.

35. (1) Subject to subsection (2), any communication to a reporting agency or trader or to a trader by a reporting agency or another trader of information relating to the credit-worthiness of any person is protected by qualified privilege.

(2) Subsection (1) does not apply where information is communicated in contravention of an order made under this Part.

Offences. Cf. Fair Credit Reports Act, 1974, s. 12.

36. Subject to this Part, a person that—

(a) contravenes, or fails to comply with, a provision of this Part;

(b) contravenes, or fails to comply with, an order made under this Part (other than an order under section 37);

(c) knowingly provides false or misleading information to another person, being a person who is engaged in compiling information for a prescribed report;

(d) divulges information relating to another person from the files of a reporting agency without proper authority to do so or except for the purposes of legal proceedings;

or

(e) obtains information relating to another person from a reporting agency or trader by false pretences,

is guilty of an offence.

Penalty: $5 000.

Powers of Tribunal. Cf. Fair Credit Reports Act, 1974, s. 13.

37. (1) The Tribunal may, upon the application of the Commissioner, make such orders against a reporting agency or trader as may be necessary or expedient in the opinion of the Tribunal to ensure that the reporting agency or trader complies with this Part or any provision of this Part.

(2) Where a reporting agency or trader—

(a) commits an offence against this Part;

or

(b) does any act that, in the opinion of the Tribunal, shows the agency or trader to be unfit to provide prescribed reports,

the Tribunal may, on the application of the Commissioner, make an order—

(c) prohibiting the agency or trader from providing prescribed reports;

or

(d) requiring the agency or trader to comply with conditions specified in the order in relation to the provision of prescribed reports.

(3) An order under subsection (1) or (2) shall be effective for such period as may be specified in the order or until further order of the Tribunal.

(4) A reporting agency or trader that contravenes, or fails to comply with, an order under subsection (1) or (2) is guilty of an offence.

Penalty: $5 000 or imprisonment for not more than 2 years.

PART VI

RETAIL TRANSACTIONS

Limited offers and failing to supply as demanded. Cf. Prices Act, 1948, s. 33a.

38. (1) A trader shall not advertise or offer goods for sale by retail upon condition that no more than a specified or limited quantity or number of the goods may be purchased by any one purchaser.

Penalty: $2 000.

(2) A trader who offers goods for sale by retail shall not refuse or fail, on demand of a quantity or number of the goods and tender of the appropriate price, to supply the goods in the quantity or number demanded.

Penalty: $2 000.

(3) It is a defence to a charge for an offence against subsection (1) to prove that on the occasion in question—

(a) the defendant neither had, nor had ready access to, a sufficient quantity or number of the goods—

(i) to meet a demand for a quantity or number of the goods greater than that specified or limited in the advertisement;

or

(ii) to meet such a demand in addition to the estimated demands of the defendant's other customers;

or

(b) the defendant was acting in accordance with a practice for the time being approved by the Commissioner.

(4) It is a defence to a charge for an offence against subsection (2) to prove that on the occasion in question—

(a) the defendant neither had, nor had ready access to, a sufficient quantity or number of the goods—

(i) to meet the demand;

or

(ii) to meet the demand in addition to the estimated demands of the defendant's other customers;

or

(b) the defendant was acting in accordance with a practice for the time being approved by the Commissioner.

Conditional sale or supply. Cf. Prices Act, 1948, s. 33d.

39. A trader shall not, without the approval of the Commissioner, offer, by advertisement or otherwise, to sell goods by retail or to supply services on condition that other goods or services must be purchased before the goods or services will be supplied at a specified price.

Penalty: $2 000.

Price tickets. Cf. Prices Act, 1948, s. 33e.

40. Where any statement of price or conditions of sale (relating to the availability of discounts or trade-in or other allowances) imprinted on, attached to or exhibited with any goods offered for sale by retail does not set out in a prominent position and in clear and legible figures the price at which the goods can be bought for cash, the trader who offers the goods is guilty of an offence.

Penalty: $2 000.

PART VII

ADVERTISEMENTS

Approval of consumer affairs authority not to be implied.

41. A person shall not, without the approval of the Commissioner, publish, or cause to be published, a statement promoting, or apparently intended to promote, the supply of goods or services or the sale or letting of premises that states, either expressly or by implication, that a consumer affairs authority has approved or refrained from disapproving—

(a) the statement;

(b) any particular contained, or claim made, in the statement;

or

(c) any goods or services referred to in the statement.

Penalty: $5 000.

Substantiation of claims.

42. (1) The Commissioner may, by notice in writing, require a person, who publishes or causes to be published a statement promoting, or apparently intended to promote, the supply of goods or services or the sale or letting of premises by the person, to provide the Commissioner, within the period specified in the notice, with proof of any claim or representation made in the statement.

(2) A person, on whom a notice under this section is served, who—

(a) fails to provide proof sufficient to support the claim or representation;

or

(b) fails to provide that proof by the time specified in the notice,

is guilty of an offence.

Penalty: $5 000.

PART VIII
RECOVERY OF TRADING DEBTS

Unlawful actions and representations.

43. (1) A creditor, or the agent of a creditor, shall not, for the purpose of recovering a trading debt of the creditor—

(a) make any demand for payment without indicating the creditor's identity and the balance owing to the creditor and, where the demand is made by the agent, the agent's identity and authority to make the demand;

(b) demand payment of any amount that the creditor or agent does not honestly believe to be due and owing to the creditor;

(c) persist in demanding payment from a person who has denied liability without making reasonable inquiries to ensure that the demand is based on reasonable grounds;

(d) make any personal calls or telephone calls for the purpose of demanding payment—

(i) on a public holiday;

or

(ii) between the hours of 10.00 p.m. of one day and 7.00 a.m. of the next;

or

(e) except as reasonably necessary to determine the debtor's whereabouts, communicate with an employer, acquaintance, friend, relative or neighbour of the debtor (not being a guarantor);

Penalty: $2 000.

(2) A creditor, or the agent of a creditor, shall not, for the purpose of recovering a trading debt—

(a) falsely represent that criminal or other proceedings will lie for non-payment of the debt;

(b) falsely pretend to be authorized in some official capacity to claim or enforce payment;

or

(c) falsely represent that a document has some official character that it does not have.

Penalty: $2 000 or imprisonment for 6 months.

(3) In this section—

"agent" includes an employee of a creditor whose main duty of employment is to seek to recover trading debts owed to the creditor.

PART IX
TRADING STAMPS

Interpretation. Cf. Trading Stamp Act, 1980, s. 4.

44. In this Part, unless the contrary intention appears—

"prohibited trading stamp" means—

(a) a third-party trading stamp;

or

(b) a trading stamp which is provided or intended to be provided in connection with the sale of, or for the purpose of promoting the sale of, tobacco, cigarettes, cigars or other tobacco products:

"redeem", in relation to a trading stamp, means to give any form of prize, gift or other benefit in return for, on production of or otherwise in respect of a trading stamp:

"sale", in relation to services, means the making of a contract under which one party (the vendor) agrees to provide services for another party (the purchaser):

"third-party trading stamp" means a trading stamp which is redeemable by a person who is not the manufacturer or a vendor of the goods or services to which the trading stamp relates:

"trading stamp" means a stamp, coupon, token, voucher, ticket or other thing—

(a) that is provided or intended to be provided in connection with the sale of, or for the purpose of promoting the sale of, goods or services;

or

(b) by virtue of which the purchaser or any other person may become entitled to, or may qualify for, a prize, gift or other benefit (whether the trading stamp constitutes an absolute or conditional entitlement or qualification).

Offences. Cf. Trading Stamp Act, 1980, s. 5.

45. (1) A person who provides or offers to provide a prohibited trading stamp in connection with the sale of goods or services is guilty of an offence.

Penalty: $2 000.

(2) A person who redeems a prohibited trading stamp is guilty of an offence.

Penalty: $2 000.

(3) A person who publishes or causes to be published an advertisement relating to prohibited trading stamps is guilty of an offence.

Penalty: $2 000.

(4) It is a defence to a charge for an offence against subsection (3) for the defendant to prove that the defendant did not know and could not reasonably be expected to have known that the trading stamps to which the advertisement related were prohibited trading stamps.

PART X

TRADE PRACTICES—APPLICATION OF COMMONWEALTH PROVISIONS

DIVISION I—PRELIMINARY

Interpretation. Trade Practices Act 1974, ss. 4 (1) and (2) and 4E (Cth).

46. (1) In this Part, unless the contrary intention appears—

"acquire" includes—

(a) in relation to goods—acquire by way of purchase, exchange or taking on lease, on hire or on hire-purchase;

and

(b) in relation to services—accept:

"arrive at", in relation to an understanding, includes reach or enter into:

"business" includes a business not carried on for profit:

"covenant" means a covenant (including a promise not under seal) annexed to or running with an estate or interest in land (whether at law or in equity and whether or not for the benefit of other land), and "proposed covenant" has a corresponding meaning:

"document" includes—

(a) a book, plan, paper, parchment or other material on which there is writing or printing, or on which there are marks, symbols or perforations having a meaning for persons qualified to interpret them;

and

(b) a disc, tape, paper or other device from which sounds or messages are capable of being reproduced:

"give effect to", in relation to a provision of a contract, arrangement or understanding, includes do an act or thing in pursuance of or in accordance with or enforce or purport to enforce:

"goods" includes—

(a) ships, aircraft and other vehicles;

(b) animals, including fish;

(c) minerals, trees and crops, whether on, under or attached to land or not;

and

(d) gas and electricity:

"market", in relation to goods or services, means a market for those goods or services and other goods or services that are substitutable for, or otherwise competitive with, those goods or services:

"price" includes a charge of any description:

"provision", in relation to an understanding, means any matter forming part of the understanding:

"require", in relation to the giving of a covenant, means require or demand the giving of a covenant, whether by way of making a contract containing the covenant or otherwise, and whether or not a covenant is given in pursuance of the requirement or demand:

"send" includes deliver, and "sent" and "sender" have corresponding meanings:

"services" includes any rights (including rights in relation to, and interests in, real or personal property), benefits, privileges or facilities that are, or are to be, provided, granted or conferred in trade or commerce, and without limiting the generality of the foregoing, includes the rights, benefits, privileges or facilities that are, or are to be, provided, granted or conferred under—

(a) a contract for or in relation to—

(i) the performance of work (including work of a professional nature), whether with or without the supply of goods;

(ii) the provision of, or of the use or enjoyment of facilities for, amusement, entertainment, recreation or instruction;

or

(iii) the conferring of rights, benefits or privileges for which remuneration is payable in the form of a royalty, tribute, levy or similar exaction;

(b) a contract of insurance;

(c) a contract between a banker and a customer of the banker entered into in the course of the carrying on by the banker of the business of banking;

or

(d) any contract for or in relation to the lending of moneys,

but does not include rights or benefits being the supply of goods or the performance of work under a contract of service:

"supply", when used as a verb, includes—

(a) in relation to goods—supply (including re-supply) by way of sale, exchange, lease, hire or hire-purchase;

and

(b) in relation to services—provide, grant or confer,

and, when used as a noun, has a corresponding meaning, and "supplied" and "supplier" have corresponding meanings:

"unsolicited goods" means goods sent to a person without any request made by or on behalf of the person:

"unsolicited services" means services supplied to a person without any request made by or on behalf of the person.

(2) In this Part, a reference to engaging in conduct shall be read as a reference to doing or refusing to do any act, including—

(a) the making of, or the giving effect to a provision of, a contract or arrangement;

(b) the arriving at, or the giving effect to a provision of, an understanding;

or

(c) the requiring of the giving of, or the giving of, a covenant.

(3) In this Part, a reference to conduct, when that expression is used as a noun otherwise than as mentioned in subsection (2), shall be read as a reference to the doing of or the refusing to do any act, including—

(a) the making of, or the giving effect to a provision of, a contract or arrangement;

(b) the arriving at, or the giving effect to a provision of, an understanding;

or

(c) the requiring of the giving of, or the giving of, a covenant.

(4) In this Part, a reference to refusing to do an act includes a reference to—

(a) refraining (otherwise than inadvertently) from doing that act;

or

(b) making it known that that act will not be done.

(5) In this Part, a reference to a person offering to do an act, or to do an act on a particular condition, includes a reference to the person making it known that the person will accept applications, offers or proposals for the person to do that act or to do that act on that condition (as the case may be).

Application of provisions rendering contracts, etc., unenforceable.
Trade Practices Act 1974, s. 4 (3) (Cth).

47. Where a provision of this Part is expressed to render a provision of a contract, or to render a covenant, unenforceable if the provision of the contract or the covenant has or is likely to have a particular effect, that provision of this Part applies in relation to the provision of the contract or the covenant at any time when the provision of the contract or the covenant has or is likely to have that effect notwithstanding that—

(a) at an earlier time the provision of the contract or the covenant did not have that effect or was not regarded as likely to have that effect;

or

(b) the provision of the contract or the covenant will not or may not have that effect at a later time.

Consumers.
Trade Practices Act 1974, s. 4B (Cth).

48. (1) For the purposes of this Part, unless the contrary intention appears—

(a) a person shall be taken to have acquired particular goods as a consumer if, and only if—

(i) the price of the goods did not exceed the prescribed amount;

or

(ii) where that price exceeded the prescribed amount—the goods were of a kind ordinarily acquired for personal, domestic or household use or consumption or the goods consisted of a commercial road vehicle, and the person did not acquire the goods, or hold himself or herself out as acquiring the goods, for the purpose of re-supply or for the purpose of using them up or transforming them, in trade or commerce, in the course of a process of production or manufacture or of repairing or treating other goods or fixtures on land;

and

(b) a person shall be taken to have acquired particular services as a consumer if, and only if—

(i) the price of the services did not exceed the prescribed amount;

or

(ii) where that price exceeded the prescribed amount—the services were of a kind ordinarily acquired for personal, domestic or household use or consumption.

(2) For the purposes of subsection (1)—

(a) the prescribed amount is $40 000 or, if a greater amount is prescribed for the purposes of this paragraph, that greater amount;

(b) subject to paragraph *(c)*, the price of goods or services purchased by a person shall be taken to have been the amount paid or payable by the person for the goods or services;

(c) where a person purchased goods or services together with other property or services, or with both other property and services, and a specified price was not allocated to the goods or services in the contract under which they were purchased, the price of the goods or services shall be taken to have been—

(i) the price at which, at the time of acquisition, the person could have purchased from the supplier the goods or services without the other property or services;

(ii) if, at the time of the acquisition, the goods or services were not available for purchase from the supplier except together with the other property or services but, at that time, goods or services of the kind acquired were available for purchase from another supplier without other property or services—the lowest price at which the person could, at that time, reasonably have purchased goods or services of that kind from another supplier;

or

(iii) if, at the time of the acquisition, goods or services of the kind acquired were not available for purchase from any supplier except together with other property or services—the value of the goods or services at that time;

(d) where a person acquired goods or services otherwise than by way of purchase, the price of the goods or services shall be taken to have been—

(i) the price at which, at the time of the acquisition, the person could have purchased the goods or services from the supplier;

(ii) if, at the time of the acquisition, the goods or services were not available for purchase from the supplier or were so available only together with other property or services but, at that time, goods or services of the kind acquired were available for purchase from another supplier—the lowest price at which the person could, at that time, reasonably have purchased goods or services of that kind from another supplier;

or

(iii) if goods or services of the kind acquired were not available, at the time of the acquisition, for purchase from

any supplier or were not so available except together with other property or services—the value of the goods or services at that time;

and

(e) without limiting by implication the meaning of the expression "services" in section 46 the obtaining of credit by a person in connection with the acquisition of goods or services by the person shall be deemed to be the acquisition by the person of a service and any amount by which the amount paid or payable by the person for the goods or services is increased by reason of the person so obtaining credit shall be deemed to be paid or payable by the person for that service.

(3) Where it is alleged in any proceeding under this Part or in any other proceeding in respect of a matter arising under this Part that a person was a consumer in relation to particular goods and services, it shall be presumed, unless the contrary is established, that the person was a consumer in relation to those goods and services.

(4) In this section—

"commercial road vehicle" means a vehicle or trailer acquired for use principally in the transport of goods on public roads.

Acquisition, supply and re-supply. Trade Practices Act 1974, s. 4C (Cth).

49. In this Part, unless the contrary intention appears—

(a) a reference to the acquisition of goods includes a reference to the acquisition of property in, or rights in relation to, goods in pursuance of a supply of the goods;

(b) a reference to the supply or acquisition of goods or services includes a reference to agreeing to supply or acquire goods or services;

(c) a reference to the supply or acquisition of goods includes a reference to the supply or acquisition of goods together with other property or services, or both;

(d) a reference to the supply or acquisition of services includes a reference to the supply or acquisition of services together with property or other services, or both;

and

(e) a reference to the re-supply of goods acquired from a person includes a reference to—

(i) a supply of the goods to another person in an altered form or condition;

and

(ii) a supply to another person of goods in which the first-mentioned goods have been incorporated.

References to purpose or reason. Trade Practices Act 1974, s. 4F (Cth).

50. For the purposes of this Part—

(a) a provision of a contract, arrangement or understanding or of a proposed contract, arrangement or understanding, or a covenant or a proposed covenant, shall be deemed to have had, or to have, a particular purpose if—

(i) the provision was included in the contract, arrangement or understanding or is to be included in the proposed contract, arrangement or understanding, or the covenant was required to be given or the proposed covenant is to be required to be given, as the case may be, for that purpose or for purposes that included or include that purpose;

and

(ii) that purpose was or is a substantial purpose;

and

(b) a person shall be deemed to have engaged or to engage in conduct for a particular purpose or a particular reason if—

(i) the person engaged or engages in the conduct for purposes that included or include that purpose or for reasons that included or include that reason, as the case may be;

and

(ii) that purpose or reason was or is a substantial purpose or reason.

Leases and licences of land and buildings. Trade Practices Act 1974, s. 4H (Cth).

51. In this Part—

(a) a reference to a contract shall be construed as including a reference to a lease of, or a licence in respect of, land or a building or part of a building and shall be so construed notwithstanding the express references in this Part to such leases or licences;

(b) a reference to making or entering into a contract, in relation to such a lease or licence, shall be read as a reference to granting or taking the lease or licence;

and

(c) a reference to a party to a contract, in relation to such a lease or licence, shall be read as including a reference to any person bound by, or entitled to the benefit of, any provision contained in the lease or licence.

Loss or damage to include injury. Trade Practices Act 1974, s. 4K (Cth).

52. In this Part—

(a) a reference to loss or damage, other than a reference to the amount of any loss or damage, includes a reference to injury;

and

(b) a reference to the amount of any loss or damage includes a reference to damages in respect of an injury.

Severability. Trade Practices Act 1974, s. 4L (Cth).

53. If the making of a contract after the commencement of this section contravenes this Part by reason of the inclusion of a particular provision in the contract, then, subject to any rights arising under Part III or any order made under section 85 or 86, nothing in this Act affects the validity or enforceability of the contract otherwise than in relation to that provision insofar as that provision is severable.

Representations. Trade Practices Act 1974, s. 51A (Cth).

54. (1) For the purposes of this Part, where a person makes a representation with respect to any future matter (including the doing of, or the

refusing to do, any act) and the person does not have reasonable grounds for making the representation, the representation shall be taken to be misleading.

(2) For the purposes of the application of subsection (1) in relation to a proceeding concerning a representation made by a person with respect to any future matter, the person shall, unless the person adduces evidence to the contrary, be deemed not to have had reasonable grounds for making the representation.

(3) Subsection (1) shall be deemed not to limit by implication the meaning of a reference in this Part to a misleading representation, a representation that is misleading in a material particular or conduct that is misleading or is likely or liable to mislead.

Application.

55. (1) This Part applies to and in relation to transactions that take place, conduct that occurs and representations that are made within the State, whether wholly or partly.

(2) For the purposes of the application in relation to a provision of Division II or III of any other provision of this Act—

(a) this Division applies also to that other provision;

and

(b) words and expressions used in that other provision have the same meanings as in this Division.

DIVISION II—TRADE PRACTICES

Misleading or deceptive conduct.
Trade Practices Act 1974, s. 52 (Cth).

56. (1) A person shall not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

(2) Nothing in the succeeding provisions of this Division shall be taken as limiting by implication the generality of subsection (1).

Unconscionable conduct.
Trade Practices Act 1974, s. 52A (Cth).

57. (1) A person shall not, in trade or commerce, in connection with the supply or possible supply of goods or services to another person, engage in conduct that is, in all the circumstances, unconscionable.

(2) Without in any way limiting the matters to which a court may have regard for the purposes of determining whether a person has contravened subsection (1) in connection with the supply or possible supply of goods or services to another person (in this subsection referred to as the "consumer"), a court may have regard to—

(a) the relative strengths of the bargaining positions of the person and the consumer;

(b) whether, as a result of the conduct engaged in by the person, the consumer was required to comply with conditions that were not reasonably necessary for the protection of the legitimate interests of the person;

(c) whether the consumer was able to understand any documents relating to the supply or possible supply of the goods or services;

(d) whether any undue influence or pressure was exerted on, or any unfair tactics were used against, the consumer or a person

acting on behalf of the consumer by the person or a person acting on behalf of the person in relation to the supply or possible supply of the goods and services;

and

(e) the amount for which, and the circumstances under which, the consumer could have acquired identical or equivalent goods or services from a person other than the person.

(3) A person shall not be taken for the purposes of this section to engage in unconscionable conduct in connection with the supply or possible supply of goods or services to another person by reason only that the person—

(a) institutes legal proceedings in relation to that supply or possible supply;

or

(b) refers a dispute or claim in relation to that supply or possible supply to arbitration.

(4) For the purposes of determining whether a person has contravened subsection (1) in connection with the supply or possible supply of goods or services to another person—

(a) a court shall not have regard to any circumstances that were not reasonably foreseeable at the time of the alleged contravention;

and

(b) a court may have regard to conduct engaged in, or circumstances existing, before the commencement of this section.

(5) A reference in this section to goods or services is a reference to goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption.

(6) A reference in this section to the supply or possible supply of goods does not include a reference to the supply or possible supply of goods for the purpose of re-supply or for the purpose of using them up or transforming them in trade or commerce.

False or misleading representations. Trade Practices Act 1974, s. 53 (Cth).

58. A person shall not, in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services—

(a) falsely represent that goods are of a particular standard, quality, grade, composition, style or model or have had a particular history or particular previous use;

(b) falsely represent that services are of a particular standard, quality or grade;

(c) falsely represent that goods are new;

(d) falsely represent that a particular person has agreed to acquire goods or services;

(e) represent that goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits that they do not have;

(f) represent that the person has a sponsorship, approval or affiliation that the person does not have;

(g) make a false or misleading representation with respect to the price of goods or services;

(h) make a false or misleading representation concerning the availability of facilities for the repair of goods or of spare parts for goods;

(i) make a false or misleading representation concerning the place of origin of goods;

(j) make a false or misleading representation concerning the need for any goods or services;

or

(k) make a false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy.

Representations and conduct in relation to land. Trade Practices Act 1974, s. 53A (Cth).

59. (1) A person shall not, in trade or commerce, in connection with the sale or grant, or possible sale or grant, of an interest in land or in connection with the promotion by any means of the sale or grant of an interest in land—

(a) represent that the person has a sponsorship, approval or affiliation that the person does not have;

(b) make a false or misleading representation concerning the nature of the interest in the land, the price payable for the land, the location of the land, the characteristics of the land, the use to which the land is capable of being put or may lawfully be put or the existence or availability of facilities associated with the land;

or

(c) offer gifts, prizes or other free items with the intention of not providing them or of not providing them as offered.

(2) A person shall not use physical force or undue harassment or coercion in connection with the sale or grant, or the possible sale or grant, of an interest in land or the payment for an interest in land.

(3) Nothing in this section shall be taken as implying that other provisions of this Division do not apply in relation to the supply or acquisition, or the possible supply or acquisition, of interests in land.

(4) In this section, "interest", in relation to land, means—

(a) a legal or equitable estate or interest in the land;

(b) a right of occupancy of the land, or of a building or part of a building erected on the land, arising by virtue of the holding of shares, or by virtue of a contract to purchase shares, in an incorporated company that owns the land or building;

or

(c) a right, power or privilege over, or in connection with, the land.

Misleading conduct in relation to employment. Trade Practices Act 1974, s. 53B (Cth).

60. A person shall not, in relation to employment that is to be, or may be, offered by the person or by another person, engage in conduct that is liable to mislead persons seeking the employment as to the availability, nature, terms or conditions of, or any other matter relating to, the employment.

Requirement to state cash price. Trade Practices Act 1974, s. 53C (Cth).

61. A person shall not, in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services, make a representation with respect to an amount that, if paid, would constitute a part of the consideration for the supply of the goods or services unless the person also specifies the cash price for the goods or services.

Offering gifts and prizes. Trade Practices Act 1974, s. 54 (Cth).

62. A person shall not, in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services, offer gifts, prizes or other free items with the intention of not providing them, or of not providing them as offered.

Misleading conduct in relation to goods. Trade Practices Act 1974, s. 55 (Cth).

63. A person shall not, in trade or commerce, engage in conduct that is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose or the quantity of any goods.

Misleading conduct in relation to services. Trade Practices Act 1974, s. 55A (Cth).

64. A person shall not, in trade or commerce, engage in conduct that is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose or the quantity of any services.

Bait advertising. Trade Practices Act 1974, s. 56.

65. (1) A person shall not, in trade or commerce, advertise for supply at a specified price, goods or services if there are reasonable grounds, of which the person is aware or ought reasonably to be aware, for believing that the person will not be able to offer for supply those goods or services at that price for a period that is, and in quantities that are, reasonable having regard to the nature of the market in which the person carries on business and the nature of the advertisement.

(2) A person who has, in trade or commerce, advertised goods or services for supply at a specified price shall offer such goods or services for supply at that price for a period that is, and in quantities that are, reasonable having regard to the nature of the market in which the person carries on business and the nature of the advertisement.

(3) In a prosecution of a person in relation to a failure to offer goods or services to another person (in this subsection referred to as the "customer") in accordance with subsection (2), it is a defence if the person establishes that—

(a) the person offered to supply, or to procure another person to supply, goods or services of the kind advertised to the customer within a reasonable time, in a reasonable quantity and at the advertised price;

or

(b) the person offered to supply immediately, or to procure another person to supply within a reasonable time, equivalent goods or services to the customer in a reasonable quantity and at the price at which the first mentioned goods or services were advertised,

and, in either case, where the offer was accepted by the customer, the person has so supplied, or procured another person to supply, goods or services.

Referral selling. Trade Practices Act 1974, s. 57 (Cth).

66. A person shall not, in trade or commerce, induce a consumer to acquire goods or services by representing that the consumer will, after the

contract for the acquisition of the goods or services is made, receive a rebate, commission or other benefit in return for giving the person the names of prospective customers or otherwise assisting the person to supply goods or services to other consumers, if receipt of the rebate, commission or other benefit is contingent on an event occurring after that contract is made.

Acceptance of payment. Trade Practices Act 1974, s. 58 (Cth).

67. A person shall not, in trade or commerce, accept payment or other consideration for goods or services where, at the time of the acceptance—

(a) the person intends—

(i) not to supply the goods or services;

or

(ii) to supply goods or services materially different from the goods or services in respect of which the payment or other consideration is accepted;

or

(b) there are reasonable grounds, of which the person is aware or ought reasonably to be aware, for believing that the person will not be able to supply the goods or services within the period specified by the person or, if no period is specified, within a reasonable time.

Misleading representations about business activities. Trade Practices Act 1974, s. 59 (Cth).

68. (1) A person shall not, in trade or commerce, make a representation that is false or misleading in a material particular concerning the profitability or risk or any other material aspect of any business activity that the person has represented as one that can be, or can be to a considerable extent, carried on at or from a person's place of residence.

(2) Where a person, in trade or commerce, invites, whether by advertisement or otherwise, other persons to engage or participate, or to offer or apply to engage or participate, in a business activity requiring—

(a) the performance by the other persons concerned of work;

or

(b) the investment of moneys by the other persons concerned and the performance by them of work associated with the investment,

the person shall not make, with respect to the profitability or risk or any other material aspect of the business activity, a representation that is false or misleading in a material particular.

Harassment and coercion. Trade Practices Act 1974, s. 60 (Cth).

69. A person shall not use physical force or undue harassment or coercion in connection with the supply or possible supply of goods or services to a consumer or the payment for goods or services by a consumer.

Pyramid selling. Trade Practices Act 1974, s. 61 (Cth).

70. (1) A person contravenes this section if—

(a) the person is a promoter of, or (if there are more than one) one of the promoters of, or is a participant in, a trading scheme to which this section applies;

and

(b) a person who is a participant in that trading scheme, or has applied or been invited to become a participant in that trading

scheme, makes any payment to or for the benefit of the person referred to in paragraph *(a)*, being a payment that the person is induced to make by reason that the prospect is held out to the person of receiving payments or other benefits in respect of the introduction (whether by the person or by another person) of other persons who become participants in that trading scheme.

(2) A person also contravenes this section if—

(a) the person is a promoter of, or (if there are more than one) one of the promoters of, is a participant in, or is otherwise acting in accordance with, a trading scheme to which this section applies;

and

(b) the person, by holding out to another person the prospect of receiving payments or other benefits in respect of the introduction (whether by that other person or by another person) of other persons who become participants in that trading scheme, attempts to induce that other person—

(i) if that other person is already a participant in that trading scheme, to make any payment to or for the benefit of the promoter or any of the promoters or to or for the benefit of a participant in that trading scheme;

or

(ii) if that other person is not already a participant in that trading scheme, to become such a participant and to make a payment of a kind mentioned in subparagraph (i).

(3) A person also contravenes this section if the person promotes, or takes part in the promotion of, a scheme under which—

(a) a payment is to be made by a person who participates, or who has applied or been invited to participate, in the scheme to or for the benefit of the person or another person who takes part in the promotion of the scheme or to or for the benefit of another person who participates in the scheme;

and

(b) the inducement for making the payment is the holding out to the person who makes or is to make the payment the prospect of receiving payments from other persons who may participate in the scheme.

(4) For the purposes of subsection (1), (2) or (3)—

(a) a prospect of a kind mentioned in that subsection shall be taken to be held out to a person whether it is held out so as to confer on the person a legally enforceable right or not;

(b) in determining whether an inducement or attempt to induce is made by holding out a prospect of a kind mentioned in that subsection, it is sufficient if a prospect of that kind constitutes or would constitute a substantial part of the inducement;

and

(c) any reference to the making of a payment to or for the benefit of a person shall be construed as including the making of a payment partly to or for the benefit of that person and partly to or for the benefit of one or more other persons.

(5) For the purposes of this section, a scheme is a trading scheme to which this section applies if the scheme includes the following elements:

(a) goods or services, or both, are to be provided by the person promoting the scheme (in this section referred to as the "promoter") or, in the case of a scheme promoted by two or more persons acting in concert (in this section referred to as the "promoters"), are to be provided by one or more of those persons;

and

(b) the goods or services so provided are to be supplied to or for other persons under transactions arranged or effected by persons who participate in the scheme (each of whom is in this section referred to as a "participant"), being persons not all of whom are promoters.

(6) For the purposes of subsection (5)—

(a) a scheme shall be taken to include the element referred to in paragraph *(b)* of that subsection whether a participant who is not a promoter acts in relation to a transaction referred to in that paragraph in the capacity of a servant or agent of the promoter or of one of the promoters or in any other capacity;

(b) a scheme includes any arrangements made in connection with the carrying on of a business, whether those arrangements are made or recorded wholly or partly in writing or not;

and

(c) any reference to the provision of goods or services by a person shall be construed as including a reference to the provision of goods or services under arrangements to which that person is a party.

Unsolicited credit and debit cards. Trade Practices Act 1974, s. 63A (Cth).

71. (1) A person shall not send a prescribed card to another person except—

(a) in pursuance of a request in writing by the person who will be under a liability to the person who issued the card in respect of the use of the card;

or

(b) in renewal or replacement, or in substitution for—

(i) a prescribed card of the same kind previously sent to that other person in pursuance of a request in writing by the person who was under a liability to the person who issued the card previously so sent in respect of the use of that card;

or

(ii) a prescribed card of the same kind previously sent to that other person and used for a purpose for which it was intended to be used.

(2) Subsection (1) applies only in relation to the sending of a prescribed card by or on behalf of the person who issued the card.

(3) A person shall not take any action that enables a person who has a credit card or a debit card to use the card as a debit card or a credit card, as the case may be, except in accordance with a request in writing by that person.

(4) In this section—

"article" includes a token, card or document:

"credit card" means any article of a kind commonly known as a credit card or any similar article intended for use in obtaining cash, goods or services on credit, and includes any article of a kind commonly issued by persons carrying on business to customers or prospective customers of those persons for use in obtaining goods or services from those persons on credit:

"debit card" means an article intended for use by a person in obtaining access to an account held by the person for the purpose of withdrawing or depositing cash or obtaining goods or services:

"prescribed card" means a credit card, a debit card or an article that may be used as a credit card and a debit card.

Right to payment for unsolicited goods, etc. Trade Practices Act 1974, s. 64 (Cth).

72. (1) A person shall not, in trade or commerce, assert a right to payment from another person for unsolicited goods unless the first mentioned person has reasonable cause to believe that there is a right to payment.

(2) A person shall not, in trade or commerce, assert a right to payment from another person for unsolicited services unless the first mentioned person has reasonable cause to believe that there is a right to payment.

(3) A person shall not assert a right to payment from another person of a charge for the making in a directory of an entry relating to the other person or to the other person's profession, business, trade or occupation unless the first mentioned person knows or has reasonable cause to believe that the other person has authorized the making of the entry.

(4) A person is not liable to make any payment to another person, and is entitled to recover by action in a court of competent jurisdiction against another person any payment made by the first mentioned person to the other person, in full or part satisfaction of a charge for the making of an entry in a directory unless the first mentioned person has authorized the making of the entry.

(5) For the purposes of this section, a person shall be taken to assert a right to a payment from another person for unsolicited goods or services, or of a charge for the making of an entry in a directory, if the first mentioned person—

(a) makes a demand for the payment or asserts a present or prospective right to the payment;

(b) threatens to bring any legal proceedings with a view to obtaining the payment;

(c) places or causes to be placed the name of the other person on a list of defaulters or debtors, or threatens to do so, with a view to obtaining the payment;

(d) invokes or causes to be invoked any other collection procedure, or threatens to do so, with a view to obtaining the payment;

or

(e) sends any invoice or other document stating the amount of the payment or setting out the price of the goods or services or the charge for the making of the entry and not stating as prominently (or more prominently) that no claim is made to the payment, or to payment of the price or charge, as the case may be.

(6) A person shall not be taken for the purposes of this section to have authorized the making of an entry in a directory unless—

(a) a document authorizing the making of the entry has been signed by the person or by another person authorized by that person;

(b) a copy of the document has been given to the person before the right to payment of a charge for the making of the entry is asserted;

and

(c) the document specifies—

(i) the name of the directory;

(ii) the name and address of the person publishing the directory;

(iii) particulars of the entry;

and

(iv) the amount of the charge for the making of the entry or the basis on which the charge is, or is to be, calculated.

(7) For the purposes of this section, an invoice or other document purporting to have been sent by or on behalf of a person shall be deemed to have been sent by that person, unless the contrary is established.

(8) In a proceeding against a person in respect of a contravention of this section—

(a) in the case of a contravention constituted by asserting a right to payment from another person for unsolicited goods or services—the burden lies on the defendant of proving that the defendant had reasonable cause to believe that there was a right to payment;

or

(b) in the case of a contravention constituted by asserting a right to payment from another person of a charge for the making of an entry in a directory—the burden lies on the defendant of proving that the defendant knew or had reasonable cause to believe that the other person had authorized the making of the entry.

(9) In this section—

"directory" includes any publication of a similar nature to a directory but does not include a newspaper published in good faith as a newspaper at regular intervals or a publication published, or to

be published, by or under the authority of the Australian Telecommunications Commission:

"making", in relation to an entry in a directory, means including, or arranging for the inclusion of, the entry.

Liability of recipient of unsolicited goods. Trade Practices Act 1974, s. 65 (Cth).

73. (1) A person to whom unsolicited goods are supplied by another person, in trade or commerce, is not liable to make any payment for the goods and is not liable for the loss of or damage to the goods other than loss or damage resulting from the doing by the first mentioned person of a wilful and unlawful act in relation to the goods during the period specified in subsection (4).

(2) Subject to subsection (3), where a person sends, in trade or commerce, unsolicited goods to another person—

(a) neither the first mentioned person nor any person claiming under the first mentioned person is entitled after the expiration of the period specified in subsection (4) to take action for the recovery of the goods from the person to whom the goods were sent;

and

(b) upon the expiration of that period, the goods become, by force of this section, the property of the person to whom the goods were sent freed and discharged from all liens and charges of any description.

(3) Subsection (2) does not apply to or in relation to unsolicited goods sent to a person if—

(a) the person has at any time during the period specified in subsection (4) unreasonably refused to permit the sender or owner of the goods to take possession of the goods;

(b) the sender or owner of the goods has within that period taken possession of the goods;

or

(c) the goods were received by the person in circumstances in which the person knew, or might reasonably be expected to have known, that the goods were not intended for the person.

(4) The period referred to in subsections (1), (2) and (3) is—

(a) if the person who receives the unsolicited goods gives notice with respect to the goods to the sender in accordance with subsection (5)—

(i) the period of one month next following the day on which the notice is given;

or

(ii) the period of 3 months next following the day on which the person received the goods,

whichever first expires;

and

(b) in any other case—the period of 3 months next following the day on which the person received the goods.

(5) A notice under subsection (4) must be in writing and must—

(a) state the name and address of the person who received the goods;

(b) state the address at which possession may be taken of the goods if it is an address other than that of the person;

and

(c) contain a statement to the effect that the goods are unsolicited goods.

Prescribed information providers.
Trade Practices Act 1974, s. 65A (Cth).

74. (1) Nothing in sections 56, 58, 59, 63, 64 or 68 applies to a prescribed publication of matter by a prescribed information provider, other than—

(a) a publication of matter in connection with—

(i) the supply or possible supply of goods or services;

(ii) the sale or grant, or possible sale or grant, of interests in land;

(iii) the promotion by any means of the supply or use of goods or services;

or

(iv) the promotion by any means of the sale or grant of interests in land,

where—

(v) the goods or services were relevant goods or services, or the interests in land were relevent interests in land, as the case may be, in relation to the prescribed information provider;

or

(vi) the publication was on behalf of, or pursuant to a contract, arrangement or understanding with—

(A) a person who supplies goods or services of that kind, or who sells or grants interests in land, being interests of that kind;

or

(B) a body corporate that is related to a body corporate that supplies goods or services of that kind, or that sells or grants interests in land, being interests of that kind;

or

(b) a publication of an advertisement.

(2) For the purposes of this section, a publication by a prescribed information provider is a prescribed publication if—

(a) in any case—the publication was made by the prescribed information provider in the course of carrying on a business of providing information;

or

(b) in the case of a person who is a prescribed information provider by virtue of paragraph *(a)*, *(b)* or *(c)* of the definition of "prescribed information provider" in subsection (3) (whether or not the person is also a prescribed information provider by virtue of another operation of that definition)—the publication was by way of a radio or television broadcast by the prescribed information provider.

(3) In this section—

"consortium" has the same meaning as that expression has in Part IIIB of the *Broadcasting and Television Act* 1942 of the Commonwealth:

"prescribed information provider" means a person who carries on a business of providing information and, without limiting the generality of the foregoing, includes—

(a) a person to whom, or each of the members of a consortium to which, a licence has been granted under Part IIIB of the *Broadcasting and Television Act* 1942 of the Commonwealth;

(b) the Australian Broadcasting Corporation;

and

(c) the Special Broadcasting Service:

"relevant goods or services", in relation to a prescribed information provider, means goods or services of a kind supplied by the prescribed information provider or, where the prescribed information provider is a body corporate, by a body corporate that is, by virtue of section 7 (5) of the *Companies (South Australia) Code*, related to the prescribed information provider:

"relevant interests in land", in relation to a prescribed information provider, means interests in land, being interests of a kind sold or granted by the prescribed information provider or, where the prescribed information provider is a body corporate, by a body corporate that is, by virtue of section 7 (5) of the *Companies (South Australia) Code*, related to the prescribed information provider.

Division III—Offences Against this Part

Offences against this Part. Trade Practices Act 1974, s. 79 (1)-(3) (Cth).

75. (1) A person who contravenes, or is involved in a contravention of, a provision of this Part (other than section 56 or 57) is guilty of a minor indictable offence.

(2) A person guilty of such an offence is, subject to subsection (3), liable to a penalty not exceeding—

(a) in the case of a body corporate—$100 000;

or

(b) in any other case—$20 000.

(3) Where—

(a) a person is guilty of two or more offences against the same provision of this Part;

and

(b) the offences are of the same or a substantially similar nature and occur at or about the same time,

the aggregate penalty for all of those offences cannot exceed the maximum penalty for a single offence.

PART XI

ENFORCEMENT

DIVISION I—POWERS OF THE COMMISSIONER AND AUTHORIZED OFFICERS

Conduct of legal proceedings on behalf of consumers.

76. (1) The Commissioner may, on behalf of a consumer and for the purpose of enforcing or protecting the rights of the consumer under this Act, a related Act or some other law, institute, defend or assume the conduct of legal proceedings.

(2) The Commissioner must not institute, defend or assume the conduct of legal proceedings pursuant to this section unless the Commissioner—

(a) is satisfied that the case raises questions of law affecting the interests of consumers generally or a particular class of consumers or that it is otherwise in the public interest to do so;

and

(b) has first obtained the written consent of the consumer and of the Minister.

(3) The consent of a consumer is irrevocable except with the agreement of the Commissioner or the Minister.

(4) The consent of the Minister may be given subject to such conditions as the Minister thinks fit.

(5) The Commissioner must not institute, defend or assume the conduct of legal proceedings pursuant to this section if the proceedings involve a monetary claim exceeding the prescribed amount.

(6) In subsection (5)—

"the prescribed amount" means—

(a) where the consumer is or is to be a party to proceedings in the capacity of purchaser or prospective purchaser of premises—$100 000 or such greater amount as may be prescribed;

(b) where the consumer is or is to be a party to proceedings in the capacity of mortgagor of premises—$50 000 or such greater amount as may be prescribed;

and

(c) in any other case—$25 000 or such greater amount as may be prescribed.

(7) The following provisions apply in relation to legal proceedings that the Commissioner institutes or defends or the conduct of which the Commissioner assumes pursuant to this section—

(a) the Commissioner has the same rights in and control over the proceedings as the consumer would have had in the conduct of those proceedings;

(b) the Commissioner may, without consulting or seeking the consent of the consumer, conduct the proceedings as the Commissioner thinks appropriate;

(c) any money (excluding costs) recovered by the Commissioner must be paid to the consumer without deduction;

(d) any amount (excluding costs) awarded against the consumer is recoverable from the consumer, except if the consumer had, before that judgment was given, given written notice to the Commissioner of the consumer's desire to settle the matter, in which case the amount is recoverable from the Commissioner;

(e) the costs of the proceedings shall be borne by or paid to the Commissioner;

and

(f) an unrelated counter-claim by or against the consumer must, if the Commissioner applies for a separate hearing, be heard separately.

Obtaining of information.

77. (1) For the purposes of this Act or any related Act, an authorized officer may require any person—

(a) to answer any questions, orally or in writing;

(b) to verify the answer to a question by statutory declaration;

or

(c) to produce books or documents.

(2) A person shall not—

(a) refuse or fail to comply with a reasonable requirement made under this section;

or

(b) give, in response to a question put under this section, an answer that is false in a material particular.

Penalty: $10 000.

(3) A person is not required to answer a question or produce a book or document if the answer or the production of the book or document would result in or tend towards self-incrimination.

Entry of inspection.

78. (1) For the purposes of this Act or any related Act, an authorized officer may at any reasonable time—

(a) enter and search any premises;

(b) make any inspection, conduct any test and take any samples;

and

(c) take any books or documents.

(2) Where an authorized officer takes any book or document under this section, the officer—

(a) may retain the book or document—

(i) for so long as is necessary to enable it to be inspected and copies of, or extracts from, it to be made or taken;

and

(ii) if the book or document is required for legal proceedings, until the conclusion of those proceedings;

and

(b) while any such book or document is in the officer's possession, must permit the person entitled to it to inspect it at any reasonable time and must, on request, furnish to that person a copy of the book or document certified as a true copy by the Commissioner.

(3) The powers conferred by subsection (1) must be exercised so as to avoid any unnecessary disruption of, or interference with, the conduct of business or performance of work.

(4) An authorized officer must produce to the person (if any) affording the officer entry to premises under this section a certificate of authority issued to the authorized officer by the Commissioner.

Division II—Assurances and Prohibition Orders

Assurances.

79. (1) Where it appears to the Commissioner that a trader has engaged in conduct that constitutes a contravention of, or failure to comply with, a provision of this Act or a related Act, the Commissioner may seek an assurance in writing from the trader that the trader will refrain from engaging in such conduct.

(2) If the Commissioner accepts an assurance, the Commissioner shall not proceed against the trader in respect of the conduct specified in the assurance, unless it appears to the Commissioner that the trader has acted contrary to the assurance.

Registration of deeds of assurance.

80. (1) The Commercial Registrar must maintain a register of assurances.

(2) A person may on payment of the prescribed fee (if any) inspect the register of assurances.

Offence.

81. (1) A trader who acts contrary to an assurance accepted by the Commissioner is guilty of an offence.

Penalty: $5 000.

(2) An offence against subsection (1) may not be prosecuted except by the Commissioner or a person authorized by the Commissioner.

Prohibition orders.

82. (1) If the Tribunal is satisfied, on the application of the Commissioner, that a trader has in the course of business acted contrary to an assurance accepted by the Commissioner, the Tribunal may make an order prohibiting the trader from engaging in that conduct.

(2) The Tribunal may make an interim order under subsection (1) pending final determination of the application.

(3) The Tribunal may, on the application of the Commissioner or a trader, vary or discharge an order under this section.

(4) An order under this section may be made subject to such conditions as the Tribunal thinks fit.

(5) In proceedings under this section the Tribunal—

(a) is bound by the rules of evidence applicable in civil proceedings in the Supreme Court;

and

(b) must not make an order (other than an interim order) unless satisfied on the balance of probabilities that proper grounds for the order have been established.

DIVISION III—CIVIL REMEDIES FOR CONTRAVENTION OF THIS ACT

Injunctions. Cf. Trade Practices Act 1974, ss. 79 (4), 80, and 80A (Cth).

83. (1) If the Court is satisfied, on the application of the Minister, the Commissioner or any other person, that a person has engaged, or proposes to engage, in conduct that constitutes or would constitute a contravention of a provision of this Act or a related Act, the Court may grant an injunction in such terms as the Court determines to be appropriate.

(2) If the Court is satisfied, on the application of the Minister or the Commissioner, that a person has engaged in conduct constituting a contravention of a provision of this Act (other than section 57) or a related Act, the Court may grant an injunction requiring that person to take specified action (which may include the disclosure of information or the publication of advertisements) to remedy any adverse consequence of that conduct.

(3) An injunction may be granted under this section—

(a) by the Supreme Court or a District Court in the course of criminal proceedings in which the defendant is alleged to have been guilty of conduct of the kind to which the application relates;

or

(b) by the Supreme Court.

(4) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised—

(a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind;

(b) whether or not the person has previously engaged in conduct of that kind;

and

(c) whether or not there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.

(5) The power of the Court to grant an injunction requiring a person to do an act or thing may be exercised—

(a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing;

(b) whether or not the person has previously refused or failed to do that act or thing;

and

(c) whether or not there is an imminent danger of substantial damage to any other person if the person refuses or fails to do that act or thing.

(6) An interim injunction may be granted under this section pending final determination of the application.

(7) A final injunction may, by consent of the parties, be granted under this section without proof that proper grounds for the injunction exist.

(8) Where the Minister or the Commissioner applies for an injunction under this section, no undertaking as to damages will be required.

(9) The Minister may give an undertaking as to damages or costs on behalf of some other applicant and, in that event, no further undertaking will be required.

(10) An injunction under this section may be rescinded or varied at any time.

Action for damages.
Cf. Trade Practices Act 1974, s. 82 (Cth).

84. (1) A person who suffers loss or damage by conduct of another in contravention of a provision of Part X (other than section 57) may recover the amount of the loss or damage by action against that other person or against any person involved in the contravention.

(2) An action under subsection (1) may be commenced at any time within three years after the date on which the cause of action accrued.

Orders for compensation, etc.
Cf. Trade Practices Act 1974, s. 87 (Cth).

85. (1) If in proceedings under this Act the Supreme Court or a District Court is satisfied that a person has suffered, or is likely to suffer, loss or damage by reason of a contravention of this Act, then whether or not any other order is made or relief granted in those proceedings, the Court may, for the purpose of compensating that person or preventing or reducing the extent of the loss or damage, make orders under this section against the person who committed the contravention or a person involved in the contravention.

(2) Whether or not other proceedings have been instituted under this Act in relation to a contravention of this Act, the Supreme Court may—

(a) on the application of a person who has suffered, or is likely to suffer, loss or damage by reason of the contravention;

or

(b) on the application of the Commissioner on behalf of one or more such persons made with the written consent of each such person,

make orders under this section, for the purpose of compensating such a person or preventing or reducing the extent of the loss or damage, against the person who committed the contravention or a person involved in the contravention.

(3) An application under subsection (2) may be commenced—

(a) in the case of a contravention of section 57—at any time within two years after the day on which the cause of action arose;

or

(b) in any other case—at any time within three years after the day on which the cause of action arose.

(4) For the purpose of determining whether to make an order under this section in relation to a contravention of section 57, the court may have regard to the conduct of the parties to the proceedings since the contravention occurred.

(5) The orders that may be made under this section are of the following kinds—

(a) an order for payment of the amount of the loss or damage;

(b) an order avoiding, in whole or part, a contract or instrument (including a contract or instrument relating to real property);

(c) an order for the variation of a contract or instrument (including a contract or instrument relating to real property);

(d) an order directing the refund of money or the return of property (including real property);

(e) an order directing the repair of, or provision of parts for, goods or the supply of specified services.

Sequestration orders.
Cf. Trade Practices Act 1974, s. 87A (Cth).

86. (1) Where—

(a) proceedings have been or may be commenced before the Supreme Court or a District Court against a person in relation to a contravention of this Act;

and

(b) the Court is satisfied, on the application of the Minister or the Commissioner—

(i) that certain money or other property may be required to satisfy an order that has been or may be made in those proceedings;

and

(ii) that the making of a sequestration order under this section will not unduly prejudice the rights or interests of any other person,

the Court may make an order for the sequestration of that money or other property.

(2) Subject to subsection (3), an order under this section may be made—

(a) for a specified period;

or

(b) until the conclusion of the proceedings referred to in subsection (1) *(a)*.

(3) An order may be made under this section on an *ex parte* application but in that event it will have a maximum life of 30 days.

(4) An order under this section may be varied or revoked at any time.

(5) A person who has notice of a sequestration order under this section shall not deal with property to which the order relates except as may be authorized by the order.

Penalty: In the case of a body corporate—$100 000.
In any other case—$20 000.

DIVISION IV—GENERAL

Proceedings.

87. (1) Except as otherwise provided, the offences constituted by this Act are summary offences.

(2) Proceedings for an offence against this Act must be commenced within 12 months after the date on which the offence is alleged to have been committed.

Defences.
Cf. Trade Practices Act 1974, s. 85 (Cth).

88. (1) Subject to subsection (3), in a prosecution for a contravention of a provision of this Act, it is a defence if the defendant establishes—

(a) that the contravention was due to reasonable mistake;

(b) that the contravention was due to reasonable reliance on information supplied by another person;

or

(c) that—

(i) the contravention was due to the act or default of another person, to an accident or to some other cause beyond the defendant's control;

and

(ii) the defendant took reasonable precautions and exercised due diligence to avoid the contravention.

(2) In subsection (1) *(b)* and *(c)*—

"another person" does not include a person who was—

(a) a servant or agent of the defendant;

or

(b) in the case of a defendant that is a body corporate, a director, servant or agent of the defendant,

at the time when the contravention occurred.

(3) If a defence provided by subsection (1) involves an allegation that a contravention was due to reliance on information supplied by another person or to the act or default of another person, the defendant is not, without leave, entitled to rely on that defence unless the defendant has, not later than seven days before the day on which the hearing of the proceeding commences, served on the person by whom the proceeding was instituted a notice in writing giving such information that would identify or assist in the identification of the other person as was then in the defendant's possession.

(4) In a prosecution for a contravention of a provision of this Act committed by the publication of an advertisement, it is a defence to establish that the defendant is a person whose business it is to publish or arrange for the publication of advertisements and that the defendant received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to a contravention of a provision of this Act.

Expiation of certain offences.

89. (1) In this section—

"prescribed offence" means an offence against this Act or a related Act declared by the regulations to be an offence to which this section applies.

(2) Where an authorized officer believes on reasonable grounds that a person has committed a prescribed offence, the officer may serve an expiation notice on that person.

(3) An expiation notice—

(a) must be in writing in the prescribed form;

and

(b) must state that the prescribed offence specified in the notice may be expiated by payment of the prescribed expiation fee to the Commissioner within 60 days after the date of the notice.

(4) Where an expiation notice has been served on a person in respect of a prescribed offence, no further expiation notice may be served on that person in respect of any other prescribed offence arising out of the same incident.

(5) The Commissioner may, by notice in writing served on the alleged offender, and notwithstanding payment of the expiation fee, withdraw an expiation notice—

(a) if the Commissioner is of the opinion that no reasonable grounds exist for proceedings against the alleged offender;

or

(b) if the Commissioner is of the opinion that the person should be prosecuted for the prescribed offence or for any other prescribed offence arising out of the same incident and not more than 60 days have elapsed since the date of the expiation notice.

(6) If an expiation notice is withdrawn, any expiation fee must be refunded.

(7) Where a prescribed offence is expiated in accordance with an expiation notice, no person shall be prosecuted for that offence or for any other prescribed offence arising out of the same incident, unless the notice is withdrawn.

(8) The fact that a person has paid an expiation fee in respect of a prescribed offence does not constitute an admission of, or evidence tending to establish, civil or criminal liability.

Vicarious liability.

90. (1) Where an agent or employee is convicted of an offence against this Act, the principal or employer is also guilty of an offence and liable to a penalty not exceeding the maximum prescribed for the offence committed by the agent or employee, unless it is proved that the principal or employer could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the agent or employee.

(2) Where an offence is committed against this Act in relation to the formation of a contract, any person who has derived or would, if the contract were carried out, expect to derive a direct or indirect pecuniary benefit from the contract is also guilty of an offence and liable to a penalty not exceeding the maximum prescribed for the principal offence, unless it is proved that the person could not, by the exercise of reasonable diligence, have prevented the commission of the principal offence.

(3) Where a body corporate is convicted of an offence against this Act, each director is also guilty of an offence and liable to a penalty not exceeding the maximum prescribed for the offence committed by the body corporate,

unless it is proved that the director could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the body corporate.

Evidentiary provisions.

91. (1) In any proceedings an apparently genuine certificate, purporting to be signed by the Minister, stating that a person named in the certificate is an authorized officer is, in the absence of proof to the contrary, proof that the person is such an officer.

(2) In any proceedings an apparently genuine certificate, purporting to be signed by the Minister or the Commissioner (as the case requires) containing particulars of a delegation under this Act is, in the absence of proof to the contrary, proof of the particulars.

(3) Where it is alleged, in any proceedings under this Act, that a contract for the supply of goods or services is a contract to which Part III applies, it shall be presumed, unless the contrary is established, that the contract is such a contract.

(4) Where it is alleged, in any proceedings under this Act, that a person was acting as a dealer within the meaning of Part III, it shall be presumed, unless the contrary is established, that the person was so acting.

(5) Where the Commissioner institutes, defends or assumes the conduct of proceedings on behalf of a consumer, all preconditions of that action required by this Act shall, in the absence of proof to the contrary, be deemed to have been satisfied.

(6) In any proceedings an apparently genuine copy of any book or document, taken by an authorized officer pursuant to this Act, certified by the Commissioner to be a true copy of the original is proof of the existence of the original and of its contents.

(7) In any proceedings a copy of an assurance registered under Division II apparently certified by the Commercial Registrar as a true copy shall, in the absence of proof to the contrary, be accepted as proof of the contents of the assurance and as proof that the trader gave the assurance and that the Commissioner accepted the assurance.

(8) A finding of fact made by a court in proceedings under this Act will, in the absence of proof to the contrary, be accepted as proof of that fact in other proceedings (except criminal proceedings) under this Act.

(9) A finding to which subsection (8) applies may be proved by production of a document under the seal of the court by which the finding was made.

(10) In any proceedings in which a civil or criminal liability is dependent on a state of mind—

(a) the state of mind of a director, servant or agent of a body corporate will be imputed to the body corporate;

and

(b) the state of mind of a servant or agent of a natural person will be imputed to that person.

PART XII

MISCELLANEOUS

Saving of other rights or remedies.

92. Nothing in this Act derogates from any right of action or other right or remedy that a person has apart from this Act.

Hindering an authorized officer.

93. A person who hinders an authorized officer acting in the exercise of powers conferred by or under this or any other Act is guilty of an offence.

Penalty: $2 000.

Impersonating an authorized officer.

94. A person who falsely represents, by words or conduct, that the person is an authorized officer is guilty of an offence.

Penalty: $2 000.

Service.

95. Service of a notice, order or other document under this Act may be effected personally or by post.

Contracting out prohibited.

96. This Act has effect notwithstanding any stipulation in any contract or agreement to the contrary.

Regulations.

97. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) prescribe codes of practice to be complied with by traders;

or

(b) exempt a specified person or class of persons or a specified transaction or class of transactions from compliance with this Act or a specified provision of this Act, either absolutely or upon conditions or subject to limitations.

(3) A regulation made under this section may—

(a) be of general or limited application;

(b) confer powers or impose duties in connection with the regulations on the Minister, the Commissioner or an authorized officer;

(c) incorporate, adopt, apply or make prescriptions by reference to, with or without modifications, any document formulated or published by any body or authority as in force at a particular time or from time to time;

and

(d) impose penalties not exceeding $1 000 for contravention of, or failure to comply with, a regulation.

SCHEDULE

TRANSITIONAL PROVISIONS

The Commissioner.

1. The person who immediately before the commencement of section 5 of this Act was the Commissioner for Consumer Affairs under the Prices Act, 1948, becomes on that commencement the Commissioner under this Act.

Authorized officers.

2. Any person who immediately before the commencement of section 7 of this Act was an authorized officer under the Prices Act, 1948, becomes on that commencement an authorized officer under this Act.

Application of the repealed Door to Door Sales Act, 1971.

3. Notwithstanding the repeal of the Door to Door Sales Act, 1971, effected by the Statutes Amendment (Fair Trading) Act, 1987, the Door to Door Sales Act, 1971, continues to apply to contracts made before the day on which it was repealed.

Application of Part III.

4. Part III applies to a contract made on or after the commencement of that Part notwithstanding that negotiations leading to the formation of the contract may have taken place before that commencement.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 43 of 1987

An Act to amend the Prices Act, 1948, and certain other related Acts; and to repeal the Door to Door Sales Act, 1971, the Fair Credit Reports Act, 1974, the Mock Auctions Act, 1972, the Pyramid Sales Act, 1973, the Trading Stamp Act, 1980, the Unfair Advertising Act, 1970, and the Unordered Goods and Services Act, 1972.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the "Statutes Amendment (Fair Trading) Act, 1987".

Commencement.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

PART II

AMENDMENT OF THE PRICES ACT, 1948

Principal Act.

3. The Prices Act, 1948, is in this Part referred to as "the principal Act".

Amendment of Long Title.

4. The Long Title to the principal Act is amended by striking out "and to regulate certain practices respecting the sale of goods and supply of services".

Amendment of s. 3—Interpretation.

5. Section 3 of the principal Act is amended—

(a) by striking out from subsection (1) the definition of "authorized officer" and substituting the following definition:

"authorized officer" means a person who is an authorized officer under section 6:;

(b) by striking out from subsection (1) the definition of "consumer";

(c) by striking out from subsection (1) the definition of "the Commissioner" and substituting the following definition:

"the Commissioner" means the Commissioner for Prices:;

and

(d) by striking out subsection (2).

Repeal of ss. 4, 5, 7, 8, 9 and 10 and substitution of new sections.

6. Sections 4, 5, 7, 8, 9 and 10 of the principal Act are repealed and the following sections are substituted:

Commissioner for Prices.

4. (1) There shall be a Commissioner for Prices.

(2) The Commissioner shall be a person employed in the Public Service of the State.

Administration of this Act.

5. (1) The Commissioner has the administration of this Act.

(2) In the administration of this Act, the Commissioner is subject to direction by the Minister.

Authorized officers.

6. (1) The following persons are authorized officers for the purposes of this Act:

(a) the Commissioner;

and

(b) any person appointed under subsection (2).

(2) The Minister may, on the recommendation of the Commissioner, appoint persons employed in the Public Service of the State to be authorized officers for the purposes of this Act.

Delegations.

7. (1) The Commissioner may delegate to a person employed in the Public Service of the State or, with the Minister's consent, to a person not so employed any of the Commissioner's powers under this Act or any other Act.

(2) The Minister may delegate any of the Minister's powers under this Act.

(3) A delegation under this section—

(a) must be in writing;

(b) may be made subject to such conditions as the delegator thinks fit;

(c) if made to the holder of a specified office or position, empowers any person for the time being holding or acting in that position to exercise the delegated powers;

(d) is revocable at will;

and

(e) does not prevent the delegator from acting personally in any matter.

(4) In any proceedings, an apparently genuine certificate purporting to be signed by the Minister or the Commissioner (as the case requires) containing particulars of a delegation under this section shall, in the absence of proof to the contrary, be accepted as proof of the particulars.

Secrecy.

8. A person shall not divulge or communicate information acquired by reason of being, or having been, employed or engaged in, or in connection with, the administration of this Act, except—

(a) with the consent of the person to whom the information relates;

(b) in connection with the administration of this Act;

(c) to a member of the police force of this State or of the Commonwealth or another State or a Territory of the Commonwealth;

(d) to a person concerned in the administration of another law of the State, or a law of the Commonwealth or another State or a Territory of the Commonwealth, relating to the control of prices;

or

(e) for the purposes of legal proceedings.

Penalty: $10 000.

Obtaining of information.

9. (1) For the purposes of this Act, an authorized officer may require any person—

(a) to answer any questions, orally or in writing;

(b) to verify the answer to a question by statutory declaration;

or

(c) to produce books or documents.

(2) A person shall not—

(a) refuse or fail to comply with a reasonable requirement made under this section;

or

(b) give, in response to a question put under this section, an answer that is false in a material particular.

Penalty: $10 000.

(3) A person is not required to answer a question or to produce a book or document if the answer or the production of the book or document would result in or tend towards self-incrimination.

Entry and inspection.

10. (1) For the purposes of this Act, an authorized officer may at any reasonable time—

(a) enter and search any premises or land;

(b) make any inspection, conduct any test and take any samples;

and

(c) take any books or documents.

(2) Where an authorized officer takes any book or document under this section, the officer—

(a) may retain the book or document—

(i) for so long as is necessary to enable it to be inspected and copies of, or extracts from, it to be made or taken;

and

(ii) if the book or document is required for legal proceedings, until the conclusion of those proceedings;

and

(b) while any such book or document is in the officer's possession, must permit the person entitled to it to inspect it at any reasonable time and must, on request, furnish to that person a copy of the book or document certified as a true copy by the Commissioner.

(3) In any proceedings an apparently genuine copy of any book or document, taken by an authorized officer pursuant to this Act, certified by the Commissioner to be a true copy of the original is proof of the existence of the original and its contents.

(4) The powers conferred by subsection (1) must be exercised so as to avoid any unnecessary disruption of, or interference with, the conduct of business or performance of work.

(5) An authorized officer must produce to the person (if any) affording the officer entry to premises or land under this section a certificate of authority issued to the authorized officer by the Commissioner.

Repeal of ss. 18a and 18b.

7. Sections 18a and 18b of the principal Act and the heading appearing immediately before section 18a of the principal Act are repealed.

Repeal of s. 32.

8. Section 32 of the principal Act is repealed.

Repeal of ss. 33a, 33b, 33c, 33d and 33e.

9. Sections 33a, 33b, 33c, 33d and 33e of the principal Act and the heading appearing immediately before section 33a of the principal Act are repealed.

Repeal of s. 49a.

10. Section 49a of the principal Act is repealed.

Repeal of schedule.

11. The schedule to the principal Act is repealed.

PART III

AMENDMENT OR REPEAL OF OTHER ACTS

Amendment of Builders Licensing Act, 1986.

12. The Builders Licensing Act, 1986, is amended—

(a) by striking out from subsection (1) of section 4 the definition of "the Commissioner" and substituting the following definition:

"the Commissioner" means the Commissioner for Consumer Affairs:;

(b) by striking out section 43;

and

(c) by striking out from subsection (3) of section 51 "the Prices Act, 1948," and substituting "the Fair Trading Act, 1987,".

13. The Consumer Credit Act, 1972, is amended— Amendment of Consumer Credit Act, 1972.

(a) by striking out from section 5 the defintion of "the Commissioner" and substituting the following definition:

"the Commissioner" means the Commissioner for Consumer Affairs:;

(b) by striking out section 8;

and

(c) by striking out sections 10, 11 and 12.

14. The Consumer Transactions Act, 1972, is amended— Amendment of Consumer Transactions Act, 1972.

(a) by striking out from section 5 the definition of "the Commissioner" and substituting the following definition:

"the Commissioner" means the Commissioner for Consumer Affairs:;

and

(b) by inserting after section 6 the following section:

6a. (1) The Commissioner has the administration of this Act. Administration of Act.

(2) In the administration of this Act, the Commissioner is subject to direction by the Minister.

15. The Door to Door Sales Act, 1971, is repealed. Repeal of Door to Door Sales Act, 1971.

16. The Fair Credit Reports Act, 1974, is repealed. Repeal of Fair Credit Reports Act, 1974.

17. The Land Agents, Brokers and Valuers Act, 1973, is amended by striking out from subsection (3) of section 101 "the Prices Act, 1948," and substituting "the Fair Trading Act, 1987,". Amendment of Land Agents, Brokers and Valuers Act, 1973.

18. The Misrepresentation Act, 1971, is amended by striking out subsection (7) from section 4. Amendment of Misrepresentation Act, 1971.

19. The Mock Auctions Act, 1972, is repealed. Repeal of Mock Auctions Act, 1972.

20. The Pyramid Sales Act, 1973, is repealed. Repeal of Pyramid Sales Act, 1973.

21. The Second-hand Goods Act, 1985, is amended— Amendment of Second-hand Goods Act, 1985.

(a) by striking out from section 4 the definition of "the Commissioner for Consumer Affairs";

and

(b) by striking out from subsection (3) of section 35 "the Prices Act, 1948," and substituting "the Fair Trading Act, 1987,".

Amendment of Second-hand Motor Vehicles Act, 1983.

22. The Second-hand Motor Vehicles Act, 1983, is amended by striking out from subsection (1) of section 5 the definitions of "authorized officer" and "the Commissioner" and substituting the following definitions:

"authorized officer" means a person who is an authorized officer under the Fair Trading Act, 1987:

"the Commissioner" means the Commissioner for Consumer Affairs:.

Amendment of Trade Measurements Act, 1971.

23. Section 33 of the Trade Measurements Act, 1971, is repealed.

Amendment of Trade Standards Act, 1979.

24. Section 31 of the Trade Standards Act, 1979, is repealed.

Repeal of Trading Stamp Act, 1980.

25. The Trading Stamp Act, 1980, is repealed.

Amendment of Travel Agents Act, 1986.

26. The Travel Agents Act, 1986, is amended—

(a) by striking out from the definition of "authorized officer" in section 3 "the Prices Act, 1948," and substituting "the Fair Trading Act, 1987,";

and

(b) by striking out sections 27 and 28.

Repeal of Unfair Advertising Act, 1970.

27. The Unfair Advertising Act, 1970, is repealed.

Repeal of Unordered Goods and Services Act, 1972.

28. The Unordered Goods and Services Act, 1972, is repealed.

SCHEDULE

The Prices Act, 1948, is further amended as follows:

Section Amended	How Amended
Section 2	Delete this section.
Section 3 (1)	Delete "unless the context otherwise requires" and substitute "unless the contrary intention appears".
Definition of "landed cost"	Delete this definition.
Definition of "price"	Delete this definition and substitute: "price" includes the value of any non-pecuniary consideration (whether direct or indirect):.
Definition of "rate"	Delete this definition.
Definition of "retail"	Delete this definition and substitute: "retail" connotes a sale for the purposes of consumption or use:.
Definition of "service"	Delete this definition and substitute: "service" means a service supplied on a commercial basis, and includes— *(a)* any such service available from the Crown or a statutory authority (including transport and the supply of water, gas or electricity); *(b)* a right to a service:.
Definition of "the Minister"	Delete this definition.
	Insert the following definitions: "to sell" includes to offer for sale: "to supply" includes to offer to supply:.
Definition of "wholesale"	Delete this definition and substitute: "wholesale" connotes a sale for the purpose of resale.
Section 3 (3)	Delete this subsection.
Section 3	Insert subsections as follows: (2) For the purposes of this Act, a person offers goods for sale if that person— *(a)* publishes a price for the goods in a price list; *(b)* exposes the goods for sale, or apparently for sale, in a shop or elsewhere; *(c)* quotes a price for the sale of the goods; or *(d)* otherwise suggests or implies that the goods are for sale. (3) For the purposes of this Act, a price may be expressed as a rate. (4) Nothing in this Act authorizes regulation or control of the price for which an employee provides a service for an employer.
Section 11a	After "he" insert "or she".
Section 12 Accounts and records in relation to declared goods and services.	Delete this section and substitute: 12. (1) A person who sells declared goods in the course of a business shall keep— *(a)* proper accounts of— (i) the costs of producing or acquiring the goods for sale; and (ii) the price at which the goods are sold; *(b)* any accounts or records required by the regulations; and *(c)* such other accounts and records as the Commissioner may require. (2) A person who supplies declared services in the course of a business shall keep—

Section Amended		How Amended
		(a) proper accounts of— (i) the costs incurred in providing the services; and (ii) the price at which the services are supplied; *(b)* any accounts or records required by the regulations; and *(c)* such other accounts and records as the Commissioner may require. (3) The Commissioner may, by notice in writing, require a person who sells declared goods, or supplies declared services, in the course of a business to keep such accounts and records as are specified in the notice. (4) Accounts and records required to be kept under this section must be kept until the Commissioner authorizes their destruction.
Section 13 (1)		Delete "such prices committees as he deems necessary" and substitute "prices committees".
Section 13 (2)		Delete "shall" first occurring and substitute "must". Delete "shall have" and substitute "has".
Section 15	Period and conditions of appointment of committee.	Delete this section and substitute: 15. (1) A member of a committee holds office for such term of office, and on such conditions, as are determined by the Governor. (2) The Governor may dismiss a member of a committee for— *(a)* neglect of duty; *(b)* dishonesty; or *(c)* incapacity to perform official duties satisfactorily.
Section 17 (2)		Delete this subsection and substitute: (2) A decision carried by a majority of the votes cast by the members present at a meeting of a committee is a decision of the committee.
Section 17 (3)		Delete this subsection and substitute: (3) Each member present at a meeting of a committee is entitled to one vote on a question before the committee and in the event of an equality of votes the chairman has an additional casting vote.
Section 19	Power to declare goods and services.	Delete this section and substitute: 19. The Governor may, by proclamation— *(a)* declare goods of a specified kind to be declared goods; *(b)* declare services of a specified kind to be declared services; *(c)* vary or revoke a declaration previously made under this section.
Section 21a		Delete this section.
Section 22		Delete "shall include" and substitute "includes".
Section 22aa (1)		Delete subsection (1) but retain the definition of "grapes" transferring it to section 3 (1).
Section 22aa (2) and (3)		Transpose these subsections so as to become subsections of section 3.
Section 22a (4)		Delete "his capacity as such" and substitute "that capacity".

Section Amended		How Amended
Section 22b (3)		Delete "and the like proceedings may be taken upon any such order as if it had been an order of the court in favour of the seller".
Section 22b (5)		Delete this subsection and substitute: (5) For the purposes of this section, a person is vicariously liable for the act of an agent or employee unless it is proved that the person could not, by the exercise of reasonable diligence, have prevented that act.
Section 22b (6)		Delete this subsection.
Section 22c (2)		Delete this subsection.
Section 22e	Minimum price provisions do not apply to certain sales.	Delete this section and substitute: 22e. Sections 22a, 22b, 22c and 22d do not apply in relation to the sale of grapes by a member of a registered co-operative to the co-operative.
Section 24 (1)		Delete "rate" and substitute "price".
Section 24 (2) *(a)*		Delete "rates" and substitute "prices".
Section 25	Sales and supplies at prices above fixed maximum.	Delete this section and substitute: 25. (1) A person shall not sell any declared goods or supply any declared services at a price greater than the maximum price fixed under this Act in relation to those goods or services. (2) Where a court finds a defendant guilty of an offence against subsection (1) it may (in addition to any penalty imposed by the court) order the defendant to repay the difference between the price actually received, and the maximum price that could lawfully have been charged, for the goods or services. (3) For the purposes of this section, a person is vicariously liable for the act of an agent or employee unless it is proved that the person could not, by the exercise of reasonable diligence, have prevented that act.
Section 26 (1)		Delete "or rate" wherever it occurs. Delete "rate or".
Section 26 (2)		Delete this subsection.
Sections 27 and 28	Maximum prices not to be evaded by use of intermediaries.	Delete these sections and substitute: 27. (1) Where the maximum wholesale price of goods of a particular class is fixed by an order under this Act a wholesaler who is not subject to the order but who purchases goods of that class from a wholesaler who is subject to the order shall not, without the consent of the Minister, re-sell the goods by wholesale at a price greater than the maximum permitted by the order. (2) Where the maximum retail price of goods of a particular class is fixed by an order under this Act, a person who is not subject to the order but who purchases goods of that class from a person who is subject to the order shall not, without the consent of the Minister, re-sell the goods by retail at a price greater than the maximum permitted by the order.
Section 29 (1)		Delete "in custody or under his control".
Section 29 (2) *(b)*		Delete this paragraph and substitute: *(b)* after making reasonable provision for private consumption or use, for satisfying subsisting contractual obligations and for ordinary business requirements, the defendant did not have a sufficient quantity of the declared goods to supply the quantity demanded;.
Section 29 (2) *(c)*		Delete this paragraph and substitute: *(c)* the defendant was a wholesale trader in the declared goods and the person who demanded the goods was not a person who would normally be entitled to the supply of the goods on a wholesale basis;.

Section Amended		How Amended
Section 30		Delete this section and substitute:
	Alteration of container size.	30. Where declared goods are to be offered for sale in a package or container, a person shall not, without the written consent of the Minister, alter the size of the package or container prior to the retail sale of the goods.
Section 31		Delete "or rate, whether by way of premium or otherwise howsoever, than the maximum price or rate" and substitute "than the maximum price".
Section 33		Delete this section.
Section 43 (1)		Delete "according to its tenor".
Section 43 (2)		Delete "of goods or rates for services shall" and substitute "must".
Section 44		Delete this section and substitute:
	Commencement of proclamations and orders.	44. A proclamation or order under this Act comes into operation on the date of its publication in the *Gazette* or on a later date specified in the proclamation or order.
Section 46		Delete "for the defendant to prove that he" and substitute "to prove that the defendant".
Section 47		Delete this section and substitute:
	Proof of fixing of prices.	47. A certificate signed by the Commissioner stating— *(a)* that a particular price was fixed under this Act in relation to declared goods or declared services; and *(b)* that the price was in force on a specified day, is proof, in the absence of proof to the contrary, of the facts stated.
Section 47a		Delete this section and substitute:
	Service of notices.	47a. A notice required or permitted to be given or served under this Act may be given or served personally or by post.
Section 48		Delete this section.
Section 50		Delete this section and substitute:
	Offences.	50. (1) A person who contravenes or fails to comply with a provision of this Act is guilty of a summary offence. (2) A person who is guilty of an offence against this Act is, where no other penalty is prescribed, liable to a penalty not exceeding $2 000 or imprisonment for 6 months.
Section 51		Insert subsection as follows: (3) A regulation may be of general or limited application.
Section 52		Delete this section.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 44 of 1987

An Act to amend the Credit Unions Act, 1976.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Credit Unions Act Amendment Act, 1987".

Amendment of s. 15—Registration and incorporation.

2. Section 15 of the principal Act is amended by inserting after paragraph *(b)* of subsection (3) the following paragraph:

(ba) that the name of the credit union—

(i) is not such as to be misleading as to the nature, objects or purposes of the credit union;

(ii) is not such as is likely to be confused with the name of any other body corporate or any registered business name;

(iii) is not undesirable as a name for a credit union;

and

(iv) conforms with any direction of the Minister relating to the names of credit unions;.

Amendment of s. 19—Alteration of rules.

3. (1) Section 19 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(3) Subject to subsection (4), where the Registrar is satisfied that the proposed alteration conforms with the requirements of this Act, the Registrar will register the alteration.

(4) Where an alteration to the rules of a credit union consists of or includes an alteration to the name of the credit union—

(a) the Registrar will not register the alteration unless he or she is satisfied that the name—

(i) is not such as to be misleading as to the nature, objects or purposes of the credit union;

(ii) is not such as is likely to be confused with the name of any other body corporate or any registered business name;

(iii) is not undesirable as a name for a credit union;

and

(iv) conforms with any directions of the Minister as to the names of credit unions;

and

(b) if the Registrar registers the alteration, the Registrar may, on the application of the credit union, amend its certificate of incorporation or issue a fresh certificate.

(2) Any change in the name of a credit union purportedly made before the commencement of this Act is ratified.

Repeal of s. 22.

4. Section 22 of the principal Act is repealed.

Amendment of s. 24— Publication of name.

5. Section 24 of the principal Act is amended by inserting after subsection (3) the following subsection:

(3a) Where a credit union changes its name in accordance with this Act, it must publish the change of name in such manner as the Registrar directs.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 45 of 1987

An Act to amend the Wrongs Act, 1936.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Wrongs Act Amendment Act, 1987".

(2) The Wrongs Act, 1936, is in this Act referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Insertion of new Part IB.

3. The following Part is inserted after section 17a of the principal Act:

PART IB

OCCUPIERS LIABILITY

Interpretation.

17b. In this Part, unless the contrary intention appears—

"dangerous" includes unsafe:

"landlord" includes a landlord under a statutory tenancy:

"occupier" of premises means a person in occupation or control of the premises, and includes a landlord:

"premises" means—

(a) land;

(b) a building or structure (including a moveable building or structure);

or

(c) a vehicle (including an aircraft or a ship, boat or vessel).

Occupier's duty of care.

17c. (1) Subject to this Part, the liability of the occupier of premises for injury, damage or loss attributable to the dangerous

state or condition of the premises shall be determined in accordance with the principles of the law of negligence.

(2) In determining the standard of care to be exercised by the occupier of premises, a court shall take into account—

(a) the nature and extent of the premises;

(b) the nature and extent of the danger arising from the state or condition of the premises;

(c) the circumstances in which the person alleged to have suffered injury, damage or loss, or the property of that person, became exposed to that danger;

(d) the age of the person alleged to have suffered injury, damage or loss, and the ability of that person to appreciate the danger;

(e) the extent (if at all) to which the occupier was aware, or ought to have been aware, of—

(i) the danger;

and

(ii) the entry of persons onto the premises;

(f) the measures (if any) taken to eliminate, reduce or warn against the danger;

(g) the extent (if at all) to which it would have been reasonable and practicable for the occupier to take measures to eliminate, reduce or warn against the danger;

and

(h) any other matter that the court thinks relevant.

(3) The fact that an occupier has not taken any measures to eliminate, reduce or warn against a danger arising from the state or condition of premises does not necessarily show that the occupier has failed to exercise a reasonable standard of care.

(4) Subject to any Act or law to the contrary, an occupier's duty of care may be reduced or excluded by contract but no contractual reduction or exclusion of the duty affects the rights of any person who is a stranger to the contract.

(5) Where an occupier is, by contract or by reason of some other Act or law, subject to a higher standard of care than would be applicable apart from this subsection, the question of whether the occupier is liable for injury, damage or loss shall be determined by reference to that higher standard of care.

(6) An occupier owes no duty of care to a trespasser unless—

(a) the presence of trespassers on the premises, and their consequent exposure to danger, were reasonably foreseeable;

and

(b) the nature or extent of the danger was such that measures which were not in fact taken should have been taken for their protection.

Landlord's liability limited to breach of duty to repair.

17d. The liability under this Part of a landlord who is not in occupation of premises is limited to injury, damage or loss arising from—

(a) an act or omission on the part of the landlord in carrying out an obligation to maintain or repair the premises;

or

(b) a failure on the part of the landlord to carry out an obligation to maintain or repair the premises.

Exclusion of conflicting common law principles.

17e. (1) Subject to subsection (2), this Part operates to the exclusion of any other principles on which liability for injury, damage or loss attributable to the state or condition of premises would, but for this Part, be determined in tort.

(2) This Part does not apply to a case where an occupier causes a dangerous state or condition of premises, or allows premises to fall into a dangerous state or condition, intending to cause injury, damage or loss to another.

Operation of this Act.

4. This Act does not affect a cause of action that arose before its commencement and does not give rise to a cause of action in relation to an event that occurred before its commencement.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

RETIREMENT VILLAGES ACT, 1987

No. 46 of 1987

SUMMARY OF PROVISIONS

PART I
PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation
4. Application of this Act
5. Administration

PART II
RIGHTS OF RESIDENTS

6. Cooling-off
7. Termination of residence rights
8. Premiums
9. Contractual rights of residents
10. Meetings of residents
11. Harsh or unconscionable residence rules
12. Documents to be supplied
13. Residents' committees
14. Tribunal may resolve disputes

PART III
MISCELLANEOUS

15. Endorsement of certificates of title
16. Lease of land in retirement village
17. Termination of retirement village scheme
18. Certain persons not to be involved in the administration of a retirement village
19. Non-compliance may be excused by the Court
20. Appeal
21. No contracting out
22. Offences
23. Regulations.

Retirement Villages (Miscellaneous) Amendment Act 1994.

Not proclaimed as at 23.5.1994 CAS

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 46 of 1987

An Act to regulate retirement villages and the rights of residents of such villages; and for other purposes.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the "Retirement Villages Act, 1987".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Interpretation.

3. In this Act, unless the contrary intention appears—

12/1994

"administering authority" in relation to a retirement village means the person by or on whose behalf the retirement village scheme is administered and includes a person (other than a resident) who owns land within the village:

"business day" means any day except a Saturday, Sunday or public holiday:

"the Commission" means the Corporate Affairs Commission:

"premium" means a payment (including a gift) made to the administering authority of a retirement village in consideration for, or in contemplation of, admission of the person by or on whose behalf the payment was made as a resident under a retirement village scheme (including any such payment made for the purchase of a residential unit in a retirement village or for the purchase, issue or assignment of shares conferring a right to occupy any such residential unit) but does not include—

(a) any such payment excluded by regulation from the ambit of this definition;

or

(b) recurrent charges:

"recurrent charge" means any amount (including rent) payable by a resident to the administering authority of a retirement village on a recurrent basis:

"residence contract" means a contract under which a person enters into occupation of a unit in a retirement village:

"residence rules" means the rules with which residents of a retirement village are expected by the administering authority to comply:

"resident" of a retirement village means a person who has been admitted to occupation of a residential unit in accordance with the scheme and includes a spouse of such a person who—

(a) is residing with that person;

or

(b) was residing with that person at the time of his or her death:

"residential unit" or "unit" means premises or a part of premises designed for separate occupation as a place of residence and includes a hostel unit:

"retired person" means a person who has attained the age of 55 years and retired from full-time employment:

"retirement village" means a complex of residential units or a number of separate complexes of residential units (including appurtenant land) occupied or intended for occupation under a retirement village scheme:

"retirement village scheme" or "scheme" means a scheme established for retired persons and their spouses, or predominantly for retired persons and their spouses, under which—

(a) residential units are occupied in pursuance of lease or licence;

(b) a right to occupation of residential units is conferred by ownership of shares;

(c) residential units are purchased from the administering authority subject to a right or option of repurchase;

or

(d) residential units are purchased by prospective residents on conditions restricting their subsequent disposal,

but does not include any such scheme under which no resident or prospective resident of a residential unit pays a premium in consideration for, or in contemplation of, admission as a resident under the scheme:

"service contract" means a contract between an administering authority or former administering authority of a retirement village and a resident for the provision to the resident of—

(a) hostel care;

(b) infirmary care;

(c) medical or nursing services;

(d) meals;

(e) administrative and management services;

(f) maintenance and repair services;

(g) recreational services;

or

(h) any other services:

"special resolution" means a resolution passed at a meeting of residents of a retirement village in the following circumstances:

(a) at least 21 days' written notice of the meeting, containing a statement of the proposed special resolution, must have been given to all residents;

and

(b) the resolution must have been passed by a majority of not less than three-quarters of the number of residents who were present, and entitled to vote, at the meeting:

"strata retirement village" means a retirement village divided into separate residential units and common property by a strata plan:

"the Tribunal" means the Residential Tenancies Tribunal.

Application of this Act.

4. (1) Subject to this section—

(a) this Act applies to retirement villages established either before or after the commencement of this Act;

and

(b) ~~this Act binds the Crown.~~ deleted and substituted 12/1994

(2) The Minister may, by notice published in the *Gazette*, confer exemptions from this Act or specified provisions of this Act—

(a) on specified religious or charitable organizations or religious or charitable organizations of a specified class;

or

(b) in relation to specified retirement villages or retirement villages of a specified class.

(3) An exemption under subsection (2) may be conditional or unconditional.

(4) A person who contravenes or fails to comply with a condition of an exemption is guilty of an offence:

Penalty: ~~$5 000.~~ Divisional 5 fine 12/1990

Administration.

~~**5.** The Commission is responsible to the Minister for the administration of this Act.~~ repealed 12/1994

PART II

RIGHTS OF RESIDENTS

Cooling-off.

6. (1) A residence contract must be in writing and comply with the requirements prescribed by the regulations 12/1994

(2) Before a person enters into a residence contract, the administering authority shall give that person a notice in the prescribed form of the person's rights under this section.

Penalty: $20 000.

(3) The notice given under subsection (2) must have attached to it—

(a) a copy of the residence rules;

(b) a checklist in the form of Schedule 2;

and

(c) any other prescribed documents.

deleted 12/1990

(4) A resident or prospective resident is entitled to rescind the residence contract—

(a) at any time within 10 business days after the date of the contract;

or

(b) if subsection (2) is not complied with—at any time before the expiration of 10 business days after the date on which the notice (with the attachments) is given.

(5) A contract is rescinded under this section by notice in writing, given personally or by post, to the administering authority.

Termination of residence rights.

7. (1) A resident of a unit in a retirement village has a right of occupation that cannot be terminated unless—

(a) the resident dies;

(b) the resident terminates the residence contract or ceases to reside in the retirement village in circumstances in which there is no reasonable prospect of the resident returning to reside in the retirement village;

(c) the resident commits a breach of the residence contract or the residence rules and the administering authority terminates the resident's right of occupation on that ground;

(d) the unit becomes an unsuitable place of residence for the resident because of the resident's mental or physical incapacity and the administering authority terminates the resident's right of occupation on that ground;

or

(e) the holder of a mortgage or charge that was in existence at the commencement of this Act becomes entitled to vacant possession of the unit in pursuance of rights conferred by the mortgage or charge.

Subject to subsection (2a), 12/1994

(2) The rights of termination under subsection (1) *(a)*, *(b)*, *(c)* or *(d)* are subject to—

(a) any limitations or qualifications arising from a contract between the administering authority and the resident;

(b) any rights of the resident deriving from the resident's ownership of an interest in the residential unit.

(3) The administering authority's decision to terminate a resident's right of occupation on the ground of a breach of the residence contract or the

residence rules is ineffective unless the Tribunal is satisfied, on the application of the administering authority, that the breach is sufficiently serious to justify termination of the right of occupation and confirms the administering authority's decision.

(4) The administering authority's decision to terminate a resident's right of occupation on the ground of a mental or physical incapacity is ineffective unless the Tribunal is satisfied, on the application of the administering authority, that proper grounds for the termination exist and confirms the decision.

~~(5) Where an application is made to the Tribunal under this section the Tribunal must proceed with the hearing and determination of the application with as much expedition as is reasonably practicable in the circumstances.~~ Omit 12/1

(6) Where the Tribunal confirms the administering authority's decision to terminate a right of occupation, it must fix a period within which the resident must vacate the unit.

(7) The Tribunal may make an order for the ejectment of a resident who has not vacated a unit at the expiration of the period referred to above.

(8) If the administering authority decides to terminate a resident's right of occupation it must give the resident, personally or by post, a notice—

(a) setting out the grounds of the administering authority's decision;

(b) informing the resident that the decision is subject to review by the Tribunal;

and

(c) informing the resident of his or her rights with regard to such a review. Omission 5 June 12/1990

Penalty: ~~$5 000.~~

8. (1) Subject to subsection (2), a premium paid to the administering authority must be held in trust (in a bank account or in a form of investment in which trustees are authorized by statute to invest trust money) until— Premiums.

(a) the person by or on whose behalf the premium was paid enters into occupation of a unit;

or

(b) it becomes apparent that that person will not enter into occupation of a unit.

12/1990 The Commissioner

(2) ~~The Commission~~ may, on the application of an administering authority, grant an exemption from subsection (1) if satisfied of the authority's capacity and willingness to provide residential units in accordance with its obligations under the residence contracts.

(3) An exemption may be conditional or unconditional, and if an administering authority contravenes or fails to comply with a condition of an exemption the authority will be guilty of an offence.

Penalty: ~~$5 000.~~ Omission 5 June 12/1990

(4) If the prospective resident does not enter into occupation of a unit, any question affecting entitlement to or disposition of the premium will be determined by reference to the residence contract subject to the following qualifications:

(a) if the prospective resident's failure to enter into occupation of the unit is attributable to a failure on the part of the administering authority to carry out contractual obligations, interest and accretions arising from investment of the premium must be paid to the prospective resident;

(b) in any other case, the administering authority will be entitled to retain any such interest and accretions.

(5) If a provision of this section is not observed, the administering authority is guilty of an offence.

Penalty: ~~$20 000.~~ Division 3 fine 12/1990

Contractual rights of residents.

9. (1) A service contract may be enforced against the administering authority, for the time being, of the retirement village.

(2) Where a premium is paid under a contract providing that it will be repaid in whole or in part on the happening of a contingency and the contingency occurs, the resident or a person claiming under the resident may recover the amount that is repayable as a debt from the administering authority, for the time being, of the retirement village.

(3) Proceedings will not lie against the owner of land in a retirement village for the enforcement of rights under subsection (1) or (2) unless—

(a) the owner is a party to the contract under which the premium is repayable;

(b) the owner is the sole administering authority of the retirement village;

or

(c) an administering authority other than the owner has failed to satisfy a judgment given for the enforcement of those rights.

to have come into operation on 30/6/1987 12/1990

(4) The rights of a resident to repayment of a premium, or part of a premium, are a charge on land in the retirement village other than—

(a) a residential unit owned by a resident;

or

(b) common property in a strata retirement village.

(5) The charge referred to above can only be enforced—

(a) with the approval of the Supreme Court;

and

(b) subject to any conditions to which the Supreme Court's approval is subject.

(6) If the Supreme Court approves the enforcement of the charge it may, subject to the conditions stipulated by the Court, be enforced in the same way as a mortgage registered under the Real Property Act, 1886.

Meetings of residents.

10. (1) The administering authority of a retirement village—

(a) may convene a meeting of the residents at any time;

and

(b) shall convene such a meeting on an annual basis.

(2) The annual meeting must be held not more than 4 months after the end of the financial year ~~in relation to which accounts are to be presented under this section.~~

(3) A meeting of residents may also be convened by a residents' committee.

(4) A meeting will be convened by sending to each resident, at least 14 days before the date of the meeting, a written notice setting out—

(a) the time and place of the meeting;

and

(b) the business to be transacted at the meeting.

~~(5) At an annual meeting, the administering authority must present—~~

(a) accounts showing the gross income derived from recurrent charges during the previous financial year, the manner in which that income has been applied, and such other information as is prescribed;

and

(b) estimates of income from recurrent charges and the expenditure of that income for a period of not less than 12 months and not more than 16 months commencing within 4 months before or after the date of the meeting.

(6) The estimates of expenditure may include provision—

(a) for paying off existing debts;

and

(b) for establishing, maintaining or increasing reserves for meeting future liabilities.

(7) The administering authority shall ensure the residents have a reasonable opportunity to put questions to the authority or its representative at any meeting convened by the authority and shall ensure as far as practicable that the questions are properly answered.

~~(8) Recurrent charges cannot be increased beyond a level shown to be justified by estimates of expenditure presented to a meeting of residents under this section.~~

(9) A special levy may not be imposed on residents of a retirement village unless authorized by special resolution passed at a meeting of residents.

(10) In the case of a strata retirement village, a meeting under this section may be held in conjunction with a meeting of the unit holders under Part XIXB of the Real Property Act, 1886.

(11) If a provision of this section is not complied with, the administering authority is guilty of an offence.

Penalty: ~~$10 000.~~

(12) Where two or more residents are in occupation of the same residential unit in a retirement village only one of them may exercise a vote at a meeting of the residents and if more than one purport to vote, the person presiding at the meeting may determine which vote is to be recognized.

Harsh or unconscionable residence rules.

11. If a residence rule, or a provision of a residence rule, is harsh or unconscionable the rule or provision is void.

Documents to be supplied to residents.

12. (1) The administering authority of a retirement village shall, at the request of a resident, provide the resident with—

(a) a copy of the residence contract under which the resident was admitted to the retirement village;

(b) a copy of the residence rules that are applicable to the retirement village;

(c) a statement of the amount to which the resident would be entitled, by way of repayment of premium, if the resident were to cease to reside at the retirement village.

Penalty: ~~$2 000.~~ Division 7 fine 12/1990

(2) If an alteration is made to residence rules, the administering authority shall issue an amended set of the rules to every resident.

Penalty: ~~$2 000.~~ Division 7 fine 12/1990

Residents' committees.

13. (1) The residents of a retirement village may elect a residents' committee to represent the interests of the residents.

(2) No person except a resident of the retirement village may be a member of such a committee.

(3) Each member of a residents' committee will hold office for one year from election but is eligible for re-election.

(4) A member may be removed from office by a special resolution at a meeting of the residents.

(5) A residents' committee may determine its own procedure.

(6) A residents' committee may appoint sub-committees and determine their procedures.

Tribunal may resolve disputes.

~~14. (1) If a dispute arises between the administering authority and a~~ resident of a retirement village, either party to the dispute may apply to the Tribunal for resolution of the matters in dispute.

(2) Where the Tribunal resolves a dispute, it may give such directions as it thinks necessary to give effect to its decision.

(3) A person who contravenes or fails to comply with a direction under this section is guilty of an offence.

Penalty: ~~$2 000.~~ Division 7 fine 12/1990 Repealed and substituted 12/1990

(4) The Tribunal may decline to entertain an application under this section if it appears to the Tribunal that the dispute could be adequately dealt with under rules for the resolution of disputes established by the administering authority of the retirement village.

(5) An application cannot be made under this section in relation to a dispute as to the repayment of a premium or portion of a premium.

~~(6) This section does not derogate from the jurisdiction of any court.~~

PART III

MISCELLANEOUS

Endorsement of certificates of title.

15. (1) Where land is, or is to be, used as a retirement village, a note of that fact must be endorsed on the relevant certificates of title.

(2) The owner of any such land shall apply to the Registrar-General for endorsement of the relevant certificates of title—

(a) if the retirement village was established before the commencement of this Act—within 3 months after the commencement of this Act;

(b) in any other case—before any person is admitted to occupation of a unit in accordance with the scheme.

Penalty: ~~$20 000.~~ Division 5 fine 12/1990

(3) Before an application is made under subsection (2), the owner must notify each person who holds a mortgage, charge or encumbrance over the land and, if the application relates to a retirement village that had not been established before the commencement of this Act, the application can only be made with the consent of each such person.

(4) The Registrar-General may cancel an endorsement made under this section if satisfied that no part of the land is still occupied under the scheme.

Lease of land in retirement village.

16. (1) The administering authority of a retirement village may lease, or grant a licence to occupy, land within the village that is not immediately required for the purposes of the scheme.

~~the Commission~~ the Commissioner 12/1990

(2) Unless ~~the Commission~~ authorizes a lease or licence for a longer term, the term of any such lease or licence must not exceed 2 years.

(3) A person to whom a lease or licence is granted under this section does not become a resident of the retirement village.

(4) If a lease or licence is granted contrary to this section the administering authority is guilty of an offence.

Penalty: ~~$5 000.~~ Division 5 fine 12/1990

Termination of retirement village scheme.

17. (1) A retirement village scheme cannot be terminated without the approval of the Supreme Court while a person who has been admitted to occupation of a unit under the scheme remains in occupation of that unit.

12/1990 The Commissioner

(2) ~~The Commission~~ will be a party to any proceedings in which the Supreme Court's approval of the termination of a retirement village scheme is sought.

(3) If the Supreme Court approves the termination of a retirement village scheme it may make such orders as it thinks necessary to protect the interests of existing residents.

Certain persons not to be involved in the administration of a retirement village.

18. (1) A person to whom this section applies shall not be concerned in the administration or management of a retirement village.

Penalty: ~~$20 000.~~ Division 5 fine 12/1990

(2) This section applies to—

(a) a person who is an insolvent under administration within the meaning of the *Companies (South Australia) Code*;

or

(b) a person who—

(i) has during the preceding 5 years been convicted of an offence to the person or an offence involving fraud or dishonesty;

or

(ii) has served a sentence of imprisonment for an offence to the person or an offence involving fraud or dishonesty, being a sentence that ended during the preceding 5 years.

Non-compliance may be excused by the Court.

19. (1) The ~~Supreme Court~~ Tribunal may, on the application of any person, excuse that person from the consequences of inadvertent non-compliance with a provision of this Act.

(2) Where the ~~Supreme Court~~ Tribunal acts under subsection (1), it may—

12/1994

(a) make consequential orders protecting the interests of any person affected by the contravention;

and

(b) make any other order that the justice of the case may require.

(3) An application may not be made under this section after proceedings for an offence relating to the non-compliance have been commenced.

Appeal.

20. (1) An appeal lies to the Supreme Court against any decision of the Tribunal under this Act.

(2) The appeal must be instituted within 28 days after the appellant receives notice of the Tribunal's decision unless the Supreme Court, in its discretion, allows a longer period for instituting the appeal.

(3) On an appeal under this section, the Supreme Court may—

(a) confirm, vary or quash the Tribunal's decision;

(b) make any decision that should have been made in the first instance;

(c) make any incidental or ancillary orders.

No contracting out.

21. ~~The rights conferred on a resident of a retirement village by this Act cannot be excluded or limited by contract.~~ Repealed and substituted 12/1994

Offences.

22. (1) The offences constituted by this Act are summary offences.

(2) A prosecution for an offence against this Act can only be commenced by ~~the Commission~~ the Commissioner or a person authorized by ~~the Commission~~ the Commissioner. 12/1994

(3) Where a body corporate is guilty of an offence against this Act, a director or manager is also guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that he or she could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the body corporate.

Regulations.

23. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) prescribe fees;

(b) prescribe forms and the information to be contained in forms; Division 9 fine 12/1990

(c) prescribe penalties (not exceeding ~~$2 000~~) for breach of a regulation.

(3) The regulations—

(a) may be of general or limited application;

(b) may leave any matter to be determined according to the opinion or discretion of the Registrar-General or ~~the Commission;~~ the Commissioner 12/1990

and

(c) may incorporate, adopt or apply, with or without modifications, any document formulated or published by any body or authority (as in force at a particular time or from time to time).

SCHEDULE 1

Transitional Provision

(1) An interest granted or conferred by the administering authority of a retirement village will constitute a prescribed interest for the purposes of the *Companies (South Australia) Code* and the *Securities Industry (South Australia) Code* if—

(a) the retirement village was established before the commencement of this Act;

(b) such an interest constituted a prescribed interest before the commencement of this Act;

and

(c) the Commission notifies the administering authority that this Schedule is to apply to it.

(2) Such an interest will cease to be a prescribed interest if the Commission cancels the notification given under subclause (1) *(c)*.

SCHEDULE 2

Check List

YOU SHOULD READ THIS DOCUMENT CAREFULLY

ENTRY INTO A RETIREMENT VILLAGE USUALLY INVOLVES A SIGNIFICANT CAPITAL COMMITMENT AND MAY CHANGE YOUR LIFESTYLE.

THESE QUESTIONS SHOULD ASSIST YOU TO MAKE AN INFORMED DECISION.

IF YOU ARE UNCERTAIN ABOUT ANY ASPECTS OF THE VILLAGE OR THE DOCUMENTS YOU HAVE RECEIVED FROM THE VILLAGE, SEEK ADVICE.

General

Have I discussed fully my decision to enter a retirement village with my family, friends, a social worker or an advisory body such as Citizens Advice Bureau?

What discussions have I had with residents of the retirement village I have chosen?

Will the lifestyle of the village (including social activities and religion) suit me?

What are the rules with regard to having someone else live with me?

What system does the village have for resolving disputes?

Are the residents actively involved in making village rules?

Legal Implications

Have I sought advice on the documents relating to the village from a solicitor, Legal Aid office, my local Citizens Advice Bureau or some other appropriate source?

Under what conditions can I be moved from my place of residence to another part of the village? Do I know and agree with the procedure?

How can the owner terminate my occupancy? Do I agree with the procedure and what are my rights?

Is my long term occupancy at the village secure?

What protection do I have if the village is sold to some other organization?

Financial Matters

Am I aware of and can I afford to pay the premium (if applicable), the regular maintenance charges and any extraordinary charges which can be imposed on me? What arrangements can be made if I can't meet future charges?

How do the terms and amount of repayment of my premium compare with other villages?

When do I get access to my money after I leave the village?

Are the residents actively involved in decisions concerning the level of maintenance and services provided, their cost, and how these costs are to be varied in the future?

What are the restrictions on the sale of my unit? What say do I have in deciding the sale price?

Building and Construction

Have the community facilities of the village been built? If not, what guarantee do I have that they will ever be constructed?

Do I have any say in the design, construction and furnishing of my unit if construction is not yet complete?

Will the unit, building and site be accessible if I become disabled and need a wheelchair or walking aid? If not, can modifications be made easily?

Health and Welfare

What services specially designed for the elderly does the village provide, e.g. nursing care, access to nursing care, an emergency call system? Do these services meet my present needs and what I expect will be my future needs?

What financial and accommodation alternatives do I have if I become too frail to live in this unit/hostel?

Activities and Amenities

What are the restrictions on the use of my unit and the village facilities? Have I enquired about live-in guests and visitors.

How will I have to adapt and alter my existing lifestyle to comply with the regulations and restrictions of life in the village?

What type of public, private or village transport is available?

Are pets permitted?

How accessible are the local shops to my present and future needs?

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 47 of 1987

An Act to amend the Planning Act, 1982.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Planning Act Amendment Act, 1987".

(2) The Planning Act, 1982, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Repeal of s. 4a and substitution of new section.

3. Section 4a of the principal Act is repealed and the following section is substituted:

Concept of change in the use of land and continuation of an existing use.

4a. (1) For the purpose of determining whether a change in the use of land has occurred, the commencement or revival of a particular use of the land will, subject to subsection (2), be regarded as a change in the use of the land if—

(a) the use supersedes a previous use of the land;

(b) the commencement of the use or the revival of the use follows upon a period of non-use;

or

(c) the use is additional to a previously established use of the land which continues notwithstanding the commencement of the new use.

(2) The revival of a use of land after a period of discontinuance will be regarded as the continuation of an existing use unless—

(a) the period intervening between the discontinuance and revival of the use exceeds two years;

(b) during the whole or a part of the period intervening between its discontinuance and revival, the use was superseded by some other use;

or

(c) the relevant planning authority has made a declaration under subsection (3) and the declaration remains unrevoked.

(3) Where—

(a) a particular use of land has been discontinued for a period of six months or more (being a period that extends up to the date on which the relevant planning authority acts under this subsection);

and

(b) the revival of that use would in the opinion of the relevant planning authority have an adverse effect upon the proper development of the locality in which the land is situated,

the relevant planning authority may, by notice in writing served on the owner and the occupier of the land, declare that a revival of the use will be treated, for the purposes of this Act, as a change in the use of the land.

(4) The owner or occupier may, within one month after service of a notice under subsection (3), or such extended period as may be allowed by the Tribunal, appeal to the Tribunal against the declaration.

(5) Upon an appeal under subsection (4), the Tribunal may confirm or revoke the declaration.

(6) For the purposes of this section, a particular use of land will be disregarded if the extent of the use is trifling or insignificant.

(7) In this section—

"relevant planning authority" means—

(a) in relation to land that is not within the area of any council—the Commission;

(b) in relation to land within the area of a council—the council or the Commission.

Amendment of s. 41—Amendments to the Development Plan.

4. Section 41 of the principal Act is amended by striking out subsections (12), (13), (14) and (15) and substituting the following subsections:

(12) Where the Minister has approved a supplementary development plan under subsection (11b) the Minister may refer the plan to the Joint Committee on Subordinate Legislation.

(13) If the Committee approves the plan, the Minister may refer the plan to the Governor.

(14) Before approving a plan the Committee should satisfy itself that adequate consideration has been given in the preparation of the plan to the interests of owners and occupiers of land who may wish to undertake development in the continuation of an existing use of land.

(15) If, at the expiration of 28 days from the day on which a supplementary development plan was referred to the Committee, the Committee has neither approved nor resolved not to approve the

plan, it will be conclusively presumed that the Committee has approved the plan.

(16) If the Committee resolves not to approve the plan, copies of the plan will be laid before both Houses of Parliament.

(17) If—

(a) the Committee resolves not to approve the plan;

but

(b) neither House of Parliament resolves, within six sitting days after the date of the copy of the plan being laid before the House, to disallow the plan,

the Minister may refer the plan to the Governor.

(18) Before referring a plan to the Governor under this section, the Minister may amend the plan in order to give effect to proposals for amendment made by the Joint Committee on Subordinate Legislation, or by either House of Parliament.

(19) Where a plan is referred to the Governor under this section the Governor may, by notice in the *Gazette*—

(a) declare the plan to be an authorized supplementary development plan;

and

(b) fix a day on which the plan will come into operation.

Amendment of s. 47—Conditions under which development may be undertaken.

5. Section 47 of the principal Act is amended by striking out subsection (8) and substituting the following subsection:

(8) No appeal lies against—

(a) a refusal of consent or concurrence under subsection (6);

or

(b) a condition attached to a consent under subsection (6),

except in relation to a proposed development that has, or will, become necessary by reason of a change, or a proposed change, in the law regulating an existing use of land.

Repeal of s. 56 and substitution of new section.

6. Section 56 of the principal Act is repealed and the following sections are substituted:

Certain development may be undertaken in the continuation of an existing use.

56. (1) Division I does not prevent or otherwise affect the continuation of an existing use of land but, subject to subsection (2), a person is not entitled to undertake development for the purpose of the continuation of an existing use of land contrary to that Division.

(2) The consent of a planning authority is not required under Division I in relation to development of a prescribed kind undertaken for the purpose of the continuation of an existing use of land.

(3) Subject to subsection (4), planning authorization is not required under Division I in relation to a use of land declared by regulation to constitute development in a case where the use constitutes the continuation of an existing use of the land.

(4) Where a use referred to in subsection (3) involves an act or activity that constitutes development in its own right, planning

authorization is (subject to this Act) required under Division I in relation to that act or activity.

Saving provision.

56a. (1) A development for which planning authorization has been granted may be undertaken and completed in accordance with that authorization notwithstanding an amendment to the Development Plan that takes effect after the date on which the application for the planning authorization was made.

(2) An activity that becomes a development by virtue of an amendment to this Act, but was lawfully commenced within three years before the amendment took effect, may be continued and completed without any planning authorization, within three years after the date on which the amendment took effect.

(3) Where development of a particular kind may be undertaken without planning authorization an amendment to the Development Plan that prohibits, or requires consent to be obtained for, a development of that kind, does not prevent the continuation and completion, within three years after the date on which the amendment takes effect of a development of that kind lawfully commenced within three years before that date.

(4) Where—

(a) consent, approval or authorization is required under an Act or Acts (not being this Act) for a proposed activity or development;

and

(b) on the date on which an amendment to this Act takes effect or an amendment to the Development Plan that prohibits, or requires consent to be obtained for, a development of that kind takes effect, all the required consents, approvals and authorizations had been obtained but the activity or development had not been commenced,

the activity or development will, for the purposes of this section, be presumed to have commenced on the date of consent, approval or authorization or, where more than one was required, the date of the consent, approval or authorization that was last obtained.

(5) The relevant planning authority may, in order to avoid or reduce hardship, extend either or both of the limitation periods referred to in subsections (2) and (3).

(6) A reference in this section to an amendment to this Act extends to the making of a regulation declaring an activity to constitute development and the variation of such a regulation.

(7) In this section—

"activity" means an act or activity.

"relevant planning authority" means the relevant planning authority under Division I in relation to the development for which an extension of a limitation period is sought.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 48 of 1987

An Act to amend the Consumer Credit Act, 1972, and the Consumer Transactions Act, 1972.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Statutes Amendment (Consumer Credit and Transactions) Act, 1987".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of Consumer Credit Act.

3. The Consumer Credit Act, 1972, is amended by striking out subsection (3) of section 6 and substituting the following subsection:

(3) This Act does not apply to a credit contract—

(a) where—

(i) the principal exceeds $20 000;

and

(ii) the credit is not provided on the security of land;

(b) where—

(i) the principal exceeds $20 000;

(ii) the credit is provided on the security of land;

and

(iii) the consumer has made a statutory declaration that the land is not to be used as a place of residence for the consumer's own personal occupation;

or

(c) where the amount of the principal exceeds $30 000.

Amendment of Consumer Transactions Act.

4. The Consumer Transactions Act, 1972, is amended—

(a) by striking out paragraph *(b)* of the definition of "consumer contract" in section 5 and substituting the following paragraph:

(b) under which the consideration to be paid or provided by or on behalf of the consumer in money or money's worth (excluding any credit charge) does not exceed $20 000;;

and

(b) by striking out the definition of "consumer credit contract" from section 5 and substituting the following definition:

"consumer credit contract" means—

(a) a credit contract—

(i) under which the principal does not exceed $20 000;

and

(ii) in respect of which no security is taken over land;

or

(b) a credit contract—

(i) under which the principal does not exceed $30 000;

and

(ii) in respect of which security is taken over land,

but does not include—

(c) a credit contract in respect of which—

(i) the amount of principal exceeds $20 000;

(ii) security is taken over land;

and

(iii) the consumer has made a statutory declaration that the land is not to be used as a place of dwelling for the consumer's personal occupation:.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

CRIMINAL LAW (ENFORCEMENT OF FINES) ACT, 1987

No. 49 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Imprisonment in default of payment of fines
5. Application to work off fine by community service
6. Reduction of fine by imprisonment or community service
7. Regulations

SCHEDULES

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 49 of 1987

An Act to amend the law relating to the enforcement of fines and other monetary orders made by courts in the exercise of criminal jurisdiction; to amend the Criminal Law Consolidation Act, 1935 and the Justices Act, 1921; and for other purposes.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Criminal Law (Enforcement of Fines) Act, 1987".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing the day on which this Act is to come into operation, suspend specified provisions of this Act until a subsequent day fixed in the proclamation or a day to be fixed by subsequent proclamation.

Interpretation.

3. In this Act—

"business day" means any day except a Saturday, Sunday or public holiday:

"court" means—

(a) the Supreme Court;

(b) a District Criminal Court;

or

(c) a court of summary jurisdiction:

"the Director" means the Executive Director, Department of Correctional Services:

"fine" means a monetary sum, or the aggregate of a number of monetary sums, that a person is ordered to pay on being convicted, or adjudged guilty, of an offence or on estreatment of a recognizance and, where such a sum has been partially paid, includes the outstanding balance of that sum but does not include

a levy imposed under the Criminal Injuries Compensation Act, 1978:

"the proper officer" means—

(a) in relation to the Supreme Court or a District Criminal Court—the Sheriff;

(b) in relation to a court of summary jurisdiction—the clerk of the court.

Imprisonment in default of payment of fines.

4. Where a term of imprisonment is to be fixed for the enforcement, or in default of payment, of a fine, the term must be fixed subject to the following limits:

(a) if the amount of the fine does not exceed $50—the term of imprisonment must not exceed one day;

(b) if the amount of the fine exceeds $50—the term of imprisonment must not exceed a period calculated on the basis on one day's imprisonment for every multiple of $50 comprised in the amount of the fine with a further one day's imprisonment for any remainder left after division of the amount of the fine by $50;

(c) the term of imprisonment must not in any case exceed six months.

Application to work off fine by community service.

5. (1) If the payment of a fine would cause severe hardship, the person liable to pay the fine may apply for permission to work off the fine by community service.

(2) An application under this section—

(a) must be made in writing to the proper officer of the court by which the fine was imposed;

and

(b) must include—

(i) a statement of the applicant's assets and liabilities;

(ii) a statement of the applicant's income and recurrent expenditure;

(iii) the prescribed information.

(3) The information contained in the application must be verified by statutory declaration.

(4) If the proper officer is satisfied that the payment of the fine would cause severe hardship to the applicant or his or her dependants, the proper officer must, within two business days after reaching that decision, refer the application to the Director.

(5) If a position for the applicant at a community service centre is currently available or will become available within a reasonable period, the Director may permit the applicant to enter into an undertaking in a form and in terms approved by the Director to perform community service.

(6) The undertaking must comply with the following provisions:

(a) the period of the community service will be determined as follows:

(i) if the amount of the fine is $100 or less—the period of community service will be eight hours;

(ii) if the amount of the fine exceeds $100—the period of community service will be calculated on the basis of eight hours' community service for each multiple of $100 comprised in the amount of the fine with a further eight hours' community service for any remainder after division of the amount of the fine by $100;

and

(b) the community service must be performed over a period not exceeding eighteen months.

(7) Where a person enters into an undertaking under this section—

(a) the Director must, within two business days of the date of the undertaking, file a copy of the undertaking with the proper officer of the court by which the fine was imposed;

and

(b) any process for enforcement of the fine will be suspended unless and until notice of the cancellation of the undertaking is filed under this section.

(8) If the proper officer of a court is not satisfied that payment of a fine would cause severe hardship to an applicant or his or her dependants, the proper officer must give the applicant written notice to that effect and the applicant may, within seven days after receiving the notice, apply to the court by which the fine was imposed for a review of the decision.

(9) If the court is of the opinion that the evidence supports a finding of severe hardship it may—

(a) reverse the proper officer's decision;

and

(b) give such incidental directions as the case may require,

(and no appeal will lie against a decision or direction of the court under this subsection).

(10) If a person fails to comply with the terms of an undertaking under this section, the Director may, by notice in writing to that person, cancel the undertaking.

(11) The Director must file a copy of the notice of cancellation with the proper officer of the court by which the fine was imposed together with a statement of the period of community service (if any) served by the applicant before the date of cancellation (and the period will be expressed in multiples of eight hours, so that if the period amounts to less than eight hours it will be ignored, as will any remainder of less than eight hours).

(12) Where a person completes the entire period of community service to be performed in pursuance of an undertaking, the Director must file a notice of that fact with the proper officer of the court by which the fine was imposed.

(13) Any notice to be given under this section may be given personally or by post.

(14) This section does not apply to a fine exceeding $2 000.

Reduction of fine by imprisonment or community service.

6. (1) If a person is imprisoned on default of payment of a fine, the amount of the fine is reduced by $50 or the balance of the fine (whichever is the lesser) for each day of imprisonment completed by the prisoner.

(2) If a person completes six months' imprisonment in default of payment of a fine, the fine is entirely extinguished.

(3) A person who is imprisoned solely for non-payment of a fine will be released from prison if the balance of the fine (in cash or a banker's cheque) is tendered to the superintendent of the prison.

(4) If a person performs community service in pursuance of an undertaking under this Act, the amount of the relevant fine is reduced by $100 or the balance of the fine (whichever is the lesser) for each eight hours' community service completed by that person.

(5) The Director will release a person from such an undertaking if the balance of the fine (in cash or a banker's cheque) is tendered to the Director.

(6) Notwithstanding the foregoing provisions, a person cannot diminish a civil liability by undergoing imprisonment or performing community service.

Regulations.

7. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) A regulation may impose a fine not exceeding $2 000 for breach of or non-compliance with the regulation.

SCHEDULE 1

Transitional Provision

This Act applies to fines imposed before or after the commencement of this Act but does not affect a term of imprisonment for the enforcement, or in default of payment, of a fine fixed before the commencement of this Act.

SCHEDULE 2

Consequential Amendments

The Criminal Law Consolidation Act, 1935, is amended by striking out subsection (2) of section 300a.

The Justices Act, 1921, is amended—

(a) by striking out from section 81 (1) "subject to the provisions of this section";

and

(b) by striking out subsections (2) and (3) of section 81.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 50 of 1987

An Act to amend the Pitjantjatjara Land Rights Act, 1981.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Pitjantjatjara Land Rights Act Amendment Act, 1987".

(2) The Pitjantjatjara Land Rights Act, 1981, is in this Act referred to as "the principal Act".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of principal Act.

3. The principal Act is amended by striking out the word "Pitjantjatjaraku" wherever it appears (whether in capitals or lower case letters) in the long title, headings, and sections, and substituting, in each case, the word "Pitjantjatjara" (in capitals or lower case letters according to the context in which the word appears).

Amendment of s. 4—Interpretation.

4. Section 4 of the principal Act is amended by inserting after the definition of "Mintabie resident" the following definition:

"petrol" includes any volatile liquid containing hydrocarbons:.

Amendment of s. 6—Powers and functions of Anangu Pitjantjatjara.

5. Section 6 of the principal Act is amended by inserting after paragraph *(i)* of subsection (2) the following word and paragraph:

and

(j) the power to take such other steps as may be necessary or expedient for, or incidental to, the performance of its functions.

Amendment of s 19—Unauthorized entry on the lands.

6. Section 19 of the principal Act is amended—

(a) by striking out subsection (3) and substituting the following subsection:

(3) An application for permission to enter the lands—

(a) may be made by an applicant on the applicant's own behalf, or on behalf of a group of persons;

and

(b) must, unless the Executive Board otherwise allows—

(i) be in writing and lodged with the Executive Board;

and

(ii) set out—

(A) the purpose for which entry to the lands is sought;

(B) the period for which entry to the land is sought;

and

(C) the time and place at which the applicant, or the group on whose behalf the application is made, seeks to enter the lands.;

(b) by inserting after subsection (5) the following subsections:

(5a) Where a group of persons is permitted to enter the lands, each member of the group is bound by the conditions (if any) subject to which the permission was granted.

(5b) A person who contravenes or fails to comply with a condition on which the person, or a group of which the person is a member, was granted permission to enter the lands is guilty of an offence and liable to a penalty not exceeding the maximum prescribed by subsection (5c).

(5c) The maximum penalty for an offence against subsection (5b) is a fine of $2 000 plus $500 for each day (if any) during which the convicted person was on the lands, or a particular part of the lands, in contravention of the condition.;

and

(c) by inserting after subsection (9) the following subsection:

(9a) A person who, being entitled to enter upon part only of the lands in pursuance of Division III, Division IV or Division VI of this Part, enters upon some other part of the lands without the permission of Anangu Pitjantjatjara acts in contravention of subsection (1).

7. Section 20 of the principal Act is amended— Amendment of s. 20— Mining operations on the lands.

(a) by inserting after subsection (2) the following subsection:

(2a) A person who, having permission to carry out mining operations upon part only of the lands, carries out mining

operations on some other part of the lands without the permission of Anangu Pitjantjatjara acts in contravention of subsection (1) *(a)*.;

(b) by striking out from subsection (5) "subsection (3)" and substituting "subsection (4)";

(c) by inserting after subsection (7) the following subsections:

(7a) The reasonable costs and expenses incurred by Anangu Pitjantjatjara in dealing with an application under this section may be recovered from the applicant as a debt.

(7b) Any payment made in satisfaction of a liability arising under subsection (7a) shall, if the application is subsequently determined in favour of the applicant but on condition that compensation be paid to Anangu Pitjantjatjara, be regarded as a payment made on account of that compensation.;

and

(d) by inserting after subsection (14) the following subsections:

(14a) The arbitrator may, if the arbitrator thinks fit, award against the applicant and in favour of Anangu Pitjantjatjara an amount that represents, in the arbitrator's opinion, the reasonable costs and expenses incurred by Anangu Pitjantjatjara in relation to the arbitration.

(14b) An amount awarded under subsection (14a) may be recovered by Anangu Pitjantjatjara as a debt.

Amendment of s. 21—Interaction of this Act and Mining and Petroleum Acts.

8. Section 21 of the principal Act is amended by striking out subsections (4), (5) and (6) and substituting the following subsection:

(4) If a person—

(a) makes a payment or gives other consideration in contravention of section 23;

or

(b) in relation to—

(i) obtaining the permission of Anangu Pitjantjatjara for the carrying out of mining operations on the lands;

or

(ii) the carrying out or proposed carrying out of mining operations on the lands,

makes a payment, or gives some other consideration, to Anangu Pitjantjatjara (not being a payment or consideration otherwise permitted or provided for in this Act) otherwise than in conformity with—

(iii) conditions imposed by Anangu Pitjantjatjara under this Division in granting its permission for the carrying out of the mining operations;

(iv) conditions determined or approved by an arbitrator under this Division;

or

(v) an agreement of which the Minister of Mines and Energy has been notified under this Division,

then—

(c) the amount of the payment, or the value of the consideration, is recoverable as a debt due to the Crown;

and

(d) (i) no mining tenement in respect of the lands will be granted to the person and the person is precluded from applying for another mining tenement in respect of the lands for the period of three years;

and

(ii) if a mining tenement in respect of the lands is held by the person, that tenement is cancelled.

Amendment of s. 23—Offence in relation to obtaining permission to carry out mining operations.

9. Section 23 of the principal Act is amended by inserting in subsection (1) "(not being a payment or consideration otherwise permitted or provided for in this Act)" after "payment or other consideration to another person".

Amendment of s. 24—Certain payments or other consideration to Anangu Pitjantjatjara must represent fair compensation.

10. Section 24 of the principal Act is amended by striking out from subsection (3) "with" and substituting "within".

Insertion of new ss. 42a to 42d.

11. The following sections are inserted after section 42 of the principal Act:

Interaction between this Act and certain other Acts and laws.

42a. (1) For the purpose of determining whether a particular part of the lands is a public place within the meaning of some other Act or law, any restrictions upon access to the lands or that place arising under this Act shall be disregarded.

(2) A reference in the Road Traffic Act, 1961, or the Motor Vehicles Act, 1959, to a road extends to any road on the lands.

Depasturing of stock.

42b. Any regulations relating to overstocking that apply to holders of pastoral leases under the Pastoral Act, 1936, apply in respect of the depasturing of stock upon the lands (other than at the Granite Downs Station) as if Anangu Pitjantjatjara were the holder of a pastoral lease in respect of the lands.

Parliamentary Committee.

42c. (1) There will be a Committee to be known as the "Pitjantjatjara Lands Parliamentary Committee".

(2) The duties of the Committee are—

(a) to take an interest in—

(i) the operation of this Act;

(ii) matters that affect the interests of the traditional owners of the lands;

and

(iii) the manner in which the lands are being managed, used and controlled;

(b) to consider any other matter referred to the Committee by the Minister;

and

(c) to provide, on or before the thirty-first day of December in each year, an annual report to Parliament on the work of the Committee during the preceding financial year.

(3) The Committee will consist of the Minister and four Members of the House of Assembly appointed by the Minister (of whom two must be appointed from the group led by the Leader of the Opposition).

(4) The seat of a Member of the Committee becomes vacant if—

(a) the Member dies;

(b) the Member delivers a written notice of resignation to the Minister;

(c) the House of Assembly is dissolved, or a term of that House expires;

(d) the Member is removed from office by resolution of the House of Assembly.

(5) The Minister will preside at a meeting of the Committee but, if the Minister is not able to attend a meeting, a Member of the Committee nominated by the Minister may preside.

(6) Subject to subsection (7), three members constitute a quorum of the Committee.

(7) When the Committee meets for the consideration of a proposed report to Parliament, the quorum must consist of at least four members.

(8) All questions to be decided by the Committee will be decided by a majority of votes of the members present.

(9) The Minister has, in addition to a deliberative vote, a casting vote in the event of an equality of votes.

(10) The Minister may, after consultation with the Speaker of the House of Assembly, appoint an officer of the Parliament as secretary to the Committee and such other officers of the Committee as are required for the performance of its functions.

(11) This section expires on the fifth anniversary of the formation of the Committee unless each House of Parliament resolves, within six months before that fifth anniversary, that the section is to continue in operation.

Petrol.

42d. (1) A person shall not be in possession of petrol on the lands for the purpose of inhalation.

Penalty: $100.

(2) A person shall not sell or supply petrol to another person on the lands if there are reasonable grounds for suspecting that the other person—

(a) intends to use the petrol for the purpose of inhalation;

or

(b) intends to sell or supply the petrol for the purpose of inhalation.

Penalty: $2 000 or imprisonment for two years.

(3) A member of the police force or a person acting under the authority of a member of the police force may confiscate and dispose of any petrol that he or she reasonably suspects is to be used or has been used for the purpose of inhalation and any container that contains or has contained such petrol.

(4) A person shall not hinder or obstruct the lawful exercise of a power under subsection (3).

Penalty: $2 000.

(5) The Governor may, by proclamation, fix a date for the expiry of this section.

(6) A proclamation should not be made under subsection (6) unless the Governor is satisfied—

(a) that adequate provision prohibiting the inhalation of petrol on the lands has been made under some other law;

or

(b) that there is no further need for a statutory prohibition against the inhalation of petrol on the lands.

Amendment of s. 43—Regulations.

12. Section 43 of the principal Act is amended—

(a) by striking out paragraphs *(c)* and *(d)* of subsection (1);

(b) by striking out paragraph *(f)* of subsection (1) and the word "and" preceding that paragraph;

(c) by striking out from subsection (2) ", *(c)* or *(d)*";

and

(d) by inserting after subsection (2) the following subsections:

(3) Anangu Pitjantjatjara may make by-laws—

(a) regulating, restricting or prohibiting the consumption, possession, sale or supply of alcoholic liquor on the lands;

(b) prohibiting the inhalation or consumption of any regulated substance on the lands and prohibiting the possession, sale or supply of any regulated substance on the lands for the purpose of inhalation or consumption;

(c) providing for the confiscation, in circumstances in which a contravention of a by-law under paragraph *(a)* or *(b)* is reasonably suspected, of alcoholic liquor or any regulated substance to which the suspected contravention relates;

(d) providing for the treatment or rehabilitation (or both) of any person affected by the misuse of alcoholic liquor or any regulated substance;

(e) prohibiting specified forms of gambling on the lands;

(f) providing for any other matter that is prescribed by the regulations as a matter in relation to which by-laws may be made.

(4) The operation of a by-law is restricted to the lands.

(5) Where Anangu Pitjantjatjara proposes to make, alter or repeal a by-law, it must give reasonable notice in writing of the proposal to the Minister.

(6) A by-law made under this section—

(a) must be submitted to the Governor for confirmation;

and

(b) is subject to disallowance by Parliament.

(7) A member of the police force may seize and impound any vehicle reasonably suspected of having been used in connection with the supply of alcoholic liquor to any person on the lands in contravention of a by-law.

(8) If a vehicle is seized pursuant to subsection (7), the matter must be referred at the next available opportunity to a magistrate conducting sittings of court on the lands.

(9) An order for the forfeiture of the vehicle to the Crown may be made by a magistrate if the magistrate is satisfied—

(a) that the vehicle has been used in connection with the supply of alcoholic liquor to a person on the lands in contravention of a by-law;

(b) that any person who so used the vehicle has on at least one previous occasion been found guilty of the offence of supplying alcoholic liquor to a person on the lands in contravention of a regulation or by-law under this Act;

and

(c) that in the circumstances of the case it is appropriate that the vehicle be confiscated.

(10) A court by which a person is found to have been unlawfully in possession of alcoholic liquor or a regulated substance for his or her own use in contravention of the by-laws may, subject to the by-laws, order that person to undergo treatment or participate in a rehabilitation programme prescribed by the by-laws.

(11) Subject to subsection (12), a person who contravenes or fails to comply with a regulation or by-law is liable to a penalty as follows:

(a) if the regulation or by-law specifies a penalty (which must not exceed $2 000)—the penalty so specified;

or

(b) if no penalty is specified—a fine of $2 000.

(12) A person who contravenes—

(a) a by-law regulating, restricting or prohibiting the sale or supply of alcoholic liquor on the lands;

or

(b) a by-law prohibiting the sale or supply of a regulated substance on the lands for the purpose of inhalation or consumption,

is liable to a fine of $2 000 or imprisonment for two years.

(13) In this section—

(a) a reference to a regulated substance is a reference to—

(i) petrol;

or

(ii) any other substance declared by the regulations to be a regulated substance for the purposes of this Act;

and

(b) a reference to a member of the police force extends to a special constable authorized by a member of the police force to seize a vehicle under this section.

Special provision relating to motor accidents.

13. (1) Where—

(a) a person suffered bodily injury in a motor accident on a road on the lands after the commencement of the principal Act and before the commencement of this Act;

and

(b) the circumstances are such that if the accident had occurred on a road elsewhere in the State the person would have been able to recover damages against the nominal defendant under Part IV of the Motor Vehicles Act, 1959,

then, notwithstanding any other Act or law—

(c) the accident shall be deemed to have occurred on a road within the meaning of the Motor Vehicles Act, 1959;

and

(d) the person has, for a period of six months from the commencement of this Act (whether the bodily injury was suffered more than or less than three years before the commencement of this Act), the right to bring proceedings for damages against the nominal defendant under Part IV of the Motor Vehicles Act, 1959 (but section 116 (4) and (5) of that Act is not applicable to those proceedings).

(2) A person who claims a right to bring proceedings pursuant to this section must, so far as is reasonably practicable, supply to the nominal defendant—

(a) details of the date and place of the motor accident;

(b) the name of the driver of the motor vehicle;

(c) the name of any witness to the motor accident;

and

(d) the name of any legally qualified medical practitioner consulted by the person in relation to the injury and copies of any written report obtained by the person as a result of that consultation.

(3) In this section—

"bodily injury" includes—

(a) mental and nervous shock;

and

(b) death:

"motor accident" means an incident in which bodily injury is caused by or arises out of the use of a motor vehicle.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 51 of 1987

An Act to amend the Liquor Licensing Act, 1985.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Liquor Licensing Act Amendment Act, 1987".

(2) The Liquor Licensing Act, 1985, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on the first day of January, 1988.

Amendment of s. 87—Licence fee.

3. Section 87 of the principal Act is amended by striking out paragraph *(c)* of subsection (2) and substituting the following paragraph:

(c) in relation to a producer's licence—11 per cent of the gross amount paid or payable otherwise than by liquor merchants for the sale of liquor (not being wine, brandy or low alcohol liquor) during the relevant assessment period.

Amendment of s. 93—Estimate by Commissioner on grant of retail or wholesale licence.

4. Section 93 of the principal Act is amended—

(a) by striking from subsection (1) "retail or wholesale";

and

(b) by inserting after paragraph *(b)* of subsection (1) the following paragraph:

(c) in relation to a producer's licence—of the gross amount that would have been paid or payable otherwise than by liquor merchants for the sale of liquor (not being wine, brandy or low alcohol liquor) during the relevant assessment period, if the licence had been in force during that assessment period.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

DEER KEEPERS ACT, 1987

No. 52 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Registration
5. Offences
6. The compensation fund
7. Entitlement to compensation
8. Allocation from the fund for the general benefit of the deer industry
9. Deer Compensation Fund Advisory Committee
10. Functions of the Committee
11. Inspector's powers
12. Summary offences
13. Regulations

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 52 of 1987

An Act to establish a compensation fund and to provide for the payment of compensation from the fund for the destruction of diseased deer; and for other purposes.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Deer Keepers Act, 1987".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation.

3. In this Act—

"the Chief Inspector" means the Chief Inspector under the Stock Diseases Act, 1934:

"the Committee" means the Deer Compensation Fund Advisory Committee:

"deer" means an animal of the family *Cervidae:*

"deer farm" means any place (not being an abattoir or saleyard) in which deer are kept:

"inspector" means an inspector under the Stock Diseases Act, 1934.

Registration.

4. (1) All deer farms must be registered.

(2) An application for registration of a deer farm—

(a) must be made in writing to the Chief Inspector;

(b) must accurately describe the location of the farm in respect of which registration is sought;

(c) must contain any other information required by the regulations;

and

(d) must be accompanied by the appropriate registration fee fixed by, or calculated in accordance with, the regulations.

(3) On receipt of due application for registration of a deer farm, the Chief Inspector must register the farm.

(4) Registration may be granted on conditions, and those conditions varied or revoked, in accordance with the regulations.

(5) Registration will be granted for a term of 12 months but in the case of an initial application registration may be granted for a lesser period (to be stated in the certificate of registration) determined by the Chief Inspector.

(6) On registering a deer farm, the Chief Inspector will issue a certificate of registration.

(7) A person who pays a registration fee and who is not the owner of the deer kept on the farm in respect of which the fee is paid may recover the fee from the owner as a debt.

Offences.

5. (1) A person shall not keep deer except at a deer farm registered under this Act.

Penalty: $2 000.

(2) A person shall not keep deer at a deer farm in contravention of a condition of registration of the farm.

Penalty: $1 000.

(3) A person shall not take deer from a registered deer farm unless the deer have been tagged or marked in a manner approved by the Chief Inspector.

Penalty: $500.

The compensation fund.

6. (1) The registration fees paid under this Act will be paid into a compensation fund established for the purposes of this Act.

(2) Costs certified by the Treasurer as having been incurred in the administration of this Act will be met from the fund.

(3) The Minister may, with the Treasurer's approval, borrow money for the purposes of the fund and, in that event, liabilities incurred in respect of the borrowing will be met from the fund.

(4) The Minister may invest money that is not immediately required for the purposes of this Act in a manner approved by the Treasurer and any interest or accretions arising from the investment will be paid into the fund.

Entitlement to compensation.

7. (1) The owner of any deer destroyed under the Stock Diseases Act, 1934, as a result of or in connection with a prescribed disease is entitled to compensation from the fund in accordance with the regulations.

(2) The right to compensation conferred by subsection (1) extends to deer destroyed before the commencement of this Act but after the 1st day of August, 1986.

Allocation from the fund for the general benefit of the deer industry.

8. Where, in the opinion of the Minister, the amount standing to the credit of the fund on 30 June in any year exceeds the prospective liabilities of the fund for the following 12 months, the Minister may direct that the excess be allocated to such programmes for the benefit of the deer industry in the State as the Minister thinks fit.

Deer Compensation Fund Advisory Committee.

9. (1) There will be a committee entitled the "Deer Compensation Fund Advisory Committee".

(2) The Committee will consist of five members appointed by the Minister, of whom—

(a) one (the Chairman) will be the Chief Inspector;

(b) three will be persons who, in the opinion of the Minister, are suitable persons to represent the interests of those engaged in the deer industry in this State;

and

(c) one (the secretary) will be a person holding a position in the Department of Agriculture.

(3) A member of the Committee will hold office on such terms and conditions as may be specified in the instrument of appointment.

(4) A member of the Committee is entitled to receive such allowances and expenses as the Minister may determine.

(5) Subject to the regulations, the Committee will determine its own procedure.

Functions of the Committee.

10. The functions of the Committee are—

(a) to advise the Minister in relation to the management of the fund;

(b) to make recommendations to the Minister in relation to the allocation of any surplus;

and

(c) to investigate and report to the Minister on any matter referred by the Minister to the Committee for advice.

Inspector's powers.

11. (1) For any purpose related to the administration or enforcement of this Act, an inspector may—

(a) at any reasonable time enter and inspect any land, premises, vehicle or place;

(b) seize and retain anything that affords evidence of an offence against this Act;

(c) require a person to answer questions put by the inspector;

(d) require a person who keeps deer to produce the certificate of registration for the deer farm at which the deer are kept.

(2) In the exercise of powers under this Act an inspector may be assisted by such persons as may be necessary or desirable in the circumstances.

(3) A person is not obliged to answer a question put by an inspector if the answer would tend to incriminate him or her of an offence.

(4) A person shall not, without reasonable excuse—

(a) hinder or obstruct an inspector, or any person assisting an inspector, in the exercise of a power conferred by this Act;

(b) refuse or fail to comply with a requirement of an inspector under this Act.

Penalty: $1 000.

Summary offences.

12. The offences constituted by this Act are summary offences.

Regulations.

13. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) In particular, the regulations may exempt (either absolutely or subject to conditions or limitations) a specified deer farm or class of deer farms or a specified person or class of persons from compliance with this Act or any specified provision of this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 53 of 1987

An Act to amend the Criminal Injuries Compensation Act, 1978.

[*Assented to 30 April 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Criminal Injuries Compensation Act Amendment Act, 1987".

(2) The Criminal Injuries Compensation Act, 1978, is in this Act referred to as "the principal Act".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend specified provisions of this Act until a subsequent day fixed in the proclamation or a day to be fixed by subsequent proclamation.

Amendment to s. 4—Interpretation.

3. Section 4 of the principal Act is amended—

(a) by inserting after the definition of "claimant" the following definition:

"conviction" includes a formal finding of guilt; and "to convict" has a corresponding meaning:;

(b) by inserting after the definition of "injury" the following definition:

"juvenile offender" means a person who was, on the date of committing an offence, under the age of 18 years:.

Amendment of s. 7—Applications for compensation.

4. Section 7 of the principal Act is amended—

(a) by striking out "twelve months" from subsection (1) and substituting "three years";

(b) by striking out from paragraph *(a)* of subsection (8) "$10 000" (twice occurring) and substituting, in each case, "$20 000";

and

(c) by striking out from paragraph *(c)* of subsection (8) "$10 000" (twice occurring) and substituting, in each case, "$20 000".

Amendment of s. 11—Payment of compensation, etc., by the Attorney-General.

5. Section 11 of the principal Act is amended—

(a) by striking out subsection (2) and substituting the following subsections:

(2) The Attorney-General may decline to satisfy an order, or may reduce the payment to be made, if it appears just to do so in view of payments (referred to below as the "other compensation") that the claimant has received or would, if he or she were to exhaust all available remedies, be likely to receive apart from this Act in respect of the injury or loss.

(2a) In the exercise of the discretion conferred by subsection (2) the Attorney-General—

(a) should have regard to the extent to which the other compensation represents an adequate compensation for the injury or loss;

(b) should (in appropriate cases) have regard to the extent to which the other compensation compensates the claimant for pain, suffering and other non-economic loss;

and

(c) if the other compensation does not, in the Attorney-General's opinion, represent an adequate compensation for pain, suffering and other non-economic loss—should not reduce the amount to be paid under this Act below—

(i) the amount that represents the extent of the deficiency;

or

(ii) $5 000,

whichever is the lesser.;

and

(b) by inserting after subsection (3) the following subsection:

(4) The Attorney-General also has an absolute discretion to make payments to a government or non-government organisation or agency for a purpose that will, in the Attorney-General's opinion, advance the interests of victims of crime.

Repeal of ss. 12, 13 and 14 and substitution of new Parts.

6. Sections 12, 13 and 14 of the principal Act are repealed and the following Parts are substituted:

PART IV

THE CRIMINAL INJURIES COMPENSATION FUND AND LEVIES

The Criminal Injuries Compensation Fund.

12. (1) The Criminal Injuries Compensation Fund continues in existence.

(2) The Fund consists of—

(a) the money provided by Parliament for the purposes of the Fund;

(b) any amounts paid into the Fund under subsection (3);

(c) any amounts recovered by way of levy under this Part;

(d) any amounts recovered by the Attorney-General under this Act;

and

(e) any money paid into the Fund in pursuance of any other Act.

(3) In each financial year, the prescribed proportion of the aggregate amount paid into General Revenue by way of fines will be paid into the Fund.

(4) Any payment made by the Attorney-General under this Act will be debited to the Fund.

(5) Any deficiency in the Fund will be met from the General Revenue of the State.

Imposition of levy.

13. (1) A levy is imposed for the purpose of providing a source of revenue for the Fund.

(2) Subject to any exceptions prescribed by the regulations, the levy is imposed on—

(a) all persons convicted of offences after the commencement of this section (whether the offence was committed before or after the commencement of this section);

and

(b) all persons who expiate offences in pursuance of expiation notices issued after the commencement of this section.

(3) Subject to subsection (4), the amount of the levy is—

(a) in relation to a summary offence—

(i) if the offence is expiated—$5;

(ii) in any other case—$20;

(b) in relation to an indictable offence—$30.

(4) If, but for this subsection, the amount of the levy payable by a juvenile offender would exceed $10, the amount of the levy will be $10.

(5) Where a levy is payable under this section by a person who expiates an offence—

(a) the amount of the levy must be shown on the expiation notice;

and

(b) notwithstanding any other law, the offence will not be regarded as expiated, and no immunity from prosecution will arise, unless both the expiation fee and the levy have been paid.

(6) Where a levy is payable under this section by a person who is convicted of an offence—

(a) the amount of the levy must be shown in—

(i) any formal record of the conviction and sentence;

(ii) any notice of the conviction and sentence given to the defendant;

(b) the levy is recoverable in the same way as a fine and the court has the same powers in relation to the levy as it has in relation to a fine (but the court may not reduce the levy or exonerate the convicted person from liability to pay it).

(7) Where a person is imprisoned or placed in a place of detention the superintendent of the prison or place of detention must, unless satisfied that the levy has been paid by or on behalf of that person, retain the amount of the levy from earnings to which the person becomes entitled while imprisoned or under detention.

PART V

MISCELLANEOUS

Interaction between this Act and other laws.

14. (1) Subject to subsection (2), this Act does not exclude or derogate from rights to damages or compensation that exist apart from this Act.

(2) Where a person recovers compensation under this Act, the amount of that compensation will be taken into account in assessing the damages or compensation for the same injury or loss in proceedings founded on rights that exist apart from this Act.

(3) Where compensation is paid under the law relating to workers compensation and the person to whom that compensation is paid also receives compensation under this Act, the payment of the latter compensation does not give rise to a right of recovery under the law relating to workers compensation.

Regulations.

15. The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

Statute law revision amendments.

7. The principal Act is amended as indicated in the schedule.

THE SCHEDULE

Section Amended	How Amended
Heading	Before section 1 insert heading as follows: PART I PRELIMINARY
Sections 2 and 3	Delete these sections.
Section 4— Definition of "dependants"	Delete "that victim who are dependent upon him financially" and substitute "of the victim who are financially dependent on the victim".
Definition of "offence"	Delete "his" and substitute "that person's".
Definition of "the repealed Act"	Delete this definition.
Section 5—	Delete this section.
Heading	Before section 7 insert heading as follows: PART II CLAIMS FOR COMPENSATION
Section 7 (1)	Delete "suffered by him" and substitute "arising from the offence".
Section 7 (5)	Delete "his" (first occurring) and substitute "the". Delete "his" where it occurs for the second time and substitute "the offender's".
Section 7 (7) *(a)*	Delete "suffered by him" and substitute "arising from the offence".
Section 7 (11) *(a)*	Delete "his" and substitute "the offender's".
Section 7 (11) *(b)*	Delete "otherwise than under" and substitute "apart from".
Section 7a (1)	Delete "requires him to do so" and substitute "so requires". After "himself" insert "or herself".
Section 8 (1a)	Delete "(whether the application is made before or after the commencement of Part II of the Statutes Amendment (Victims of Crime Act, 1986)".
Section 8 (2)	Delete "therefrom".
Heading	Before section 11 insert heading as follows: PART III PAYMENT OF COMPENSATION.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

PUBLIC FINANCE AND AUDIT ACT, 1987

No. 54 of 1987

SUMMARY OF PROVISIONS

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SCHEDULE.

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 54 of 1987

An Act to regulate the receipt and expenditure of public money; to provide for auditing the receipt and expenditure of public money and for examination of the degree of efficiency and economy with which public resources are used; and for other purposes.

[*Assented to 7 May 1987*]

The Parliament of South Australia enacts as follows:

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the "Public Finance and Audit Act, 1987".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Repeal of Public Finance Act, 1936, and Audit Act, 1921.

3. (1) The Public Finance Act, 1936, is repealed.

(2) The Audit Act, 1921, is repealed.

Interpretation.

4. (1) In this Act, unless the contrary intention appears—

"annual Appropriation Act" means an Act (not being a Supply Act) that appropriates money from the Consolidated Account in respect of a particular financial year:

"Auditor-General" means the person for the time being holding, or acting in, the office of Auditor-General:

"authorized officer" means a person authorized by the Auditor-General to conduct an audit or to make an examination under this Act:

"Chief Executive Officer" of a public authority means—

(a) where the public authority is a government department—the Chief Executive Officer, or a person who has the powers and functions of Chief Executive Officer, of the government department;

(b) where the public authority is a Minister—the Minister;

(c) where the public authority is a statutory authority (not being a natural person or a corporation sole)—the chief executive officer of the authority or, if there is no chief executive officer, the person entitled to preside at meetings of the governing body of the authority;

(d) where the public authority is a natural person or a corporation sole—that person or the person constituting the corporation:

"deposit account" means an account referred to in Division V of Part II:

"Deputy Auditor-General" means the person for the time being holding, or acting in, the office of Deputy Auditor-General:

"the general ledger" means the ledger maintained by the Treasurer comprising accounts that summarize the financial transactions of the Treasurer:

"government department" means an administrative unit established under, or continued in existence by, the Government Management and Employment Act, 1985:

"Financial Agreement" means the financial agreement dated the twelfth day of December, 1927, between the Commonwealth and the States, as amended:

"financial year" in relation to a public authority means a period of 12 months in respect of which the authority prepares its accounts:

"imprest account" means an account established under section 9:

"prescribed public authority" means—

(a) a public authority that is a statutory authority;

or

(b) any other public authority that has been declared by regulation to be a prescribed public authority for the purposes of this definition:

"public accounts" means the Consolidated Account, special deposit accounts, deposit accounts, accounts of money deposited by the Treasurer with SAFA, imprest accounts and all other accounts shown in the general ledger:

"public authority" means—

(a) a government department;

(b) a Minister;

(c) a statutory authority—

(i) that is an instrumentality of the Crown;

or

(ii) the accounts of which the Auditor-General is required by law to audit;

(d) such other authority as is prescribed,

but does not include a statutory authority where the Act by or under which the authority is appointed or established provides for the auditing of the accounts of the authority by a person other than the Auditor-General:

"publicly funded body" means—

(a) a municipal council or a district council;

(b) any other body corporate that carries out functions that are of public benefit and that has received money from the State by way of grant or loan:

"repealed Audit Act" means the Audit Act, 1921, repealed by this Act:

"repealed Public Finance Act" means the Public Finance Act, 1936, repealed by this Act:

"SAFA" means the South Australian Government Financing Authority established under the Government Financing Authority Act, 1982:

"special deposit account" means an account established under section 8:

"Supply Act" means an Act that appropriates money from the Consolidated Account in respect of a particular financial year pending the enactment of an annual Appropriation Act in respect of that year:

"Treasurer's instructions" means instructions issued by the Treasurer under Part IV:

"Treasurer's statements" means the statements prepared by the Treasurer under Division VI of Part II.

(2) In calculating the number of sitting days of a House of Parliament that has elapsed since a particular document was laid before the House, sitting days occurring before and after prorogation or dissolution of the House shall be aggregated.

(3) + (4) deleted 17/1994

PART II

PUBLIC FINANCE

DIVISION I—PROVISIONS RELATING TO THE RECEIPT AND APPLICATION OF PUBLIC MONEY

Receipt of public money.

5. Subject to this Act and to any other law to the contrary, there will be credited to the Consolidated Account—

(a) money received by the Treasurer in repayment of loans and advances made from the Consolidated Account;

(b) money received by the Treasurer from the Commonwealth;

(c) money received by the Treasurer from the sale of real or personal property belonging to the Crown;

(d) money borrowed by the Treasurer for the general purposes of the State (other than money paid to SAFA at the direction of the Treasurer);

(e) all other revenue of the Crown that is not authorized by law to be credited to any other account.

Expenditure of money from Consolidated Account only in accordance with Parliamentary appropriation.

6. (1) Money must not be issued or applied from the Consolidated Account except under the authority of—

(a) this Act;

(b) an annual Appropriation Act;

(c) a Supply Act;

or

(d) some other Act of Parliament.

(2) The Treasurer must, when issuing or applying money from the Consolidated Account, act in accordance with the Act by or under which the money has been appropriated.

Money received by instrumentalities of the Crown.

7. (1) Subject to subsection (2), money received by an instrumentality of the Crown that should, but for this section, be paid into the Consolidated Account may, without appropriation by Parliament, be applied by the instrumentality in carrying out its functions.

(2) The Treasurer may direct that money referred to in subsection (1) be paid into the Consolidated Account instead of being applied under that subsection.

(3) A reference in this section to an instrumentality of the Crown does not extend to any such instrumentality that is a natural person or a corporation sole unless the regulations specifically provide that this section will apply to the instrumentality.

Special deposit accounts.

8. (1) The Treasurer may establish a special deposit account for an approved purpose of, or relating to, a government department.

(2) Money payable to the Crown in relation to an approved purpose must, at the direction of the Treasurer, be credited to a special deposit account opened for that purpose.

(3) The Treasurer may credit any money appropriated or provided in accordance with law for an approved purpose to a special deposit account opened under this section for that purpose.

(4) Subject to subsection (5), the Treasurer may, without Parliamentary appropriation, issue and apply any money standing to the credit of a special deposit account for the purpose for which that account was opened.

(5) Any surplus of income over expenditure standing to the credit of a special deposit account at the end of a financial year must be credited to the Consolidated Account unless the Treasurer otherwise directs.

(6) Subject to this section special deposit accounts must be operated in accordance with the Treasurer's instructions.

(7) The Treasurer may, by notice in the *Gazette*, declare a purpose of, or relating to, a government department to be an approved purpose under this section and may, by a subsequent notice, vary or revoke a declaration previously made under this subsection.

(8) A reference in subsection (5)—

(a) to income extends to income accrued but not received;

and

(b) to expenditure extends to costs incurred but not paid.

Imprest accounts.

9. (1) The Treasurer may establish a bank account (an imprest account) in the name of a government department or the Chief Executive Officer of a government department.

(2) The Treasurer may, without Parliamentary appropriation pay money into an imprest account.

(3) Money standing to the credit of an imprest account—

(a) may be withdrawn for one or more of the purposes of the government department;

and

(b) must be repaid to the Treasurer on demand.

(4) Money expended from an imprest account must be recouped to the account from money appropriated for the same purpose.

Application of money to honour cheques, etc.

10. Money issued from the Consolidated Account may be applied after the end of a financial year to honour cheques or other orders for the payment of money drawn by the Treasurer before the end of the financial year under the authority of an annual Appropriation Act or a Supply Act relating to that year.

Investment of public money by Treasurer.

11. The Treasurer may, on such terms and conditions as the Treasurer thinks fit, deposit or invest money under the Treasurer's control—

(a) with the Reserve Bank of Australia;

(b) with the Commonwealth Bank of Australia;

(c) ~~with the State Bank of South Australia;~~ 17/1/94

(d) with a bank within the meaning of the *Banking Act* 1959 of the Commonwealth;

(e) with a dealer in the short term money market—

(i) in relation to whom the Reserve Bank of Australia stands as a lender of last resort;

or

(ii) who has been declared by regulation to be an approved dealer for the purposes of this section;

(f) with SAFA;

(g) with a prescribed person or a person of a prescribed class;

or

(h) in a prescribed manner.

DIVISION II—APPROPRIATION BY GOVERNOR FOR PREVIOUSLY AUTHORIZED PURPOSES AND APPROPRIATION FOR OTHER PURPOSES

Appropriation by Governor.

12. (1) The Governor may, in any financial year, appropriate from the Consolidated Account to the public purposes of the State, an amount not exceeding the maximum prescribed by subsection (2).

(2) The maximum amount that may be appropriated under subsection (1) is—

(a) three per cent of the total of the amounts set out in the annual Appropriation Acts for appropriation from the Consolidated Account in respect of the previous financial year;

less

(b) any amounts previously appropriated under this section and not recouped under subsection (4).

(3) Money appropriated under subsection (1) may be issued and applied by the Treasurer for the public purposes of the State during the financial year in which it is appropriated.

(4) Any money appropriated for any purpose by the Governor pursuant to this section in any financial year may be recouped to the Governor's Appropriation Fund out of any money subsequently voted by an annual Appropriation Act that is passed in the same financial year, and thereafter the balance of the Governor's Appropriation Fund will be increased by the amount so recouped.

(5) For the purpose of determining the total amount that may be appropriated by the Governor in accordance with this section each amount so appropriated will be included once only in that determination notwithstanding that it is, for any reason, recorded more than once in the Consolidated Account or in a schedule to that account.

(6) In this section—

"the Governor's Appropriation Fund" in relation to a financial year means the money that the Governor is by subsection (1) authorized to appropriate in that year:

"the public purposes of the State" includes any purpose for which money is, under the provisions of any Act, required to be paid out of money to be provided or appropriated by Parliament.

Adjustment of levels of appropriation between departments.

13. Where the amount appropriated for a particular government department or a particular purpose is insufficient for that department or purpose and the amount appropriated for another government department or another purpose exceeds the amount required for that department or purpose, the Governor may apply the excess, or any part of the excess, towards meeting the insufficiency.

Reduction in level of appropriation by Governor.

14. The Governor may, at any time, reduce the amount appropriated for a government department or purpose.

Appropriation by Treasurer for additional salaries, wages, etc.

15. Where by reason of the award, order or determination of a court, tribunal or other body empowered to fix salaries or wages, additional money is required to meet increases in salaries, wages, pay-roll tax or superannua-

tion contributions payable to, or in respect of, employees whose salaries or wages are paid wholly or in part out of public money, the Treasurer may appropriate an amount sufficient to cover those increases from the Consolidated Account.

DIVISION III—AUTHORITY TO BORROW

Power to borrow.

16. (1) Subject to the Financial Agreement, the Treasurer may borrow on behalf of the State such sums as are required for the purposes of the State.

(2) Money borrowed by the Treasurer under this section (other than money borrowed by way of overdraft) must be credited to the Consolidated Account or must be paid to SAFA on such terms and conditions as the Treasurer thinks fit.

(3) The Treasurer must not borrow money by way of overdraft in excess of the limit prescribed for that purpose by an annual Appropriation Act.

(4) The Treasurer may issue and apply money from the Consolidated Account—

(a) in repayment of money borrowed under this section (other than money borrowed by way of overdraft) and credited to the Consolidated Account and in payment of interest or any other obligation in the nature of interest in relation to such borrowing;

and

(b) in payment of interest or any other obligation in the nature of interest in relation to money borrowed by way of overdraft.

DIVISION IV—CREDIT ARRANGEMENTS, GUARANTEES AND INDEMNITIES

Interpretation.

17. (1) In this Division—

"credit arrangement" means a contract or arrangement under which a semi-government authority—

(a) borrows money;

(b) obtains immediately or prospectively the use or benefit of property owned by some other person;

or

(c) obtains any other form of financial accommodation,

but does not include a contract or arrangement of a kind excluded by the Treasurer, by notice published in the *Gazette*, from the ambit of this definition:

"guarantee" includes a contract or arrangement of a prescribed kind:

"semi-government authority" means a body corporate—

(a) that—

(i) is constituted of a Minister of the Crown;

(ii) has a governing body comprised of or including persons or a person appointed by the Governor

or a Minister or other instrumentality of the Crown;

or

(iii) is financed wholly or in part out of public money;

and

(b) that is declared by proclamation to be a semi-government authority for the purposes of this Act,

but does not include a council as defined in the Local Government Act, 1934.

(2) The Governor may, by proclamation, declare a body corporate to be a semi-government authority for the purposes of this Act.

(3) The Governor may, by proclamation, vary or revoke a declaration under subsection (2).

Credit arrangements.

18. (1) A semi-government authority may, with the consent of the Treasurer, enter into a credit arrangement on terms and conditions approved by the Treasurer.

(2) Notwithstanding the provisions of any other Act, a semi-government authority must not enter into a credit arrangement without the consent of the Treasurer.

(3) The consent of the Treasurer under this section—

(a) may be absolute or conditional;

and

(b) may relate to a particular credit arrangement, credit arrangements of a particular class or credit arrangements generally.

(4) No consent or approval is required under this section in respect of a credit arrangement entered into by the ~~State Bank of South Australia.~~ South Australian Asset Management Corporation 17/1994

Guarantees and indemnities.

19. (1) The Treasurer may, for and on behalf of the State—

(a) guarantee performance by a semi-government authority or other person of obligations arising under a contract to which a semi-government authority is a party or a contract that is incidental, ancillary, or otherwise related to such a contract;

(b) indemnify any person against loss, expenditure or costs related to a contract to which a semi-government authority is a party, or a contract that is incidental, ancillary, or otherwise related to such a contract.

(2) The terms and conditions of a guarantee or indemnity under this section will be as determined by the Treasurer.

(3) As a condition of giving a guarantee or indemnity under this section, the Treasurer may require an indemnity against liabilities that may arise under the guarantee or indemnity.

(4) The money required to satisfy the obligations of the Treasurer under a guarantee or indemnity entered into under this section or under the repealed Public Finance Act will be paid out of the Consolidated Account which is appropriated for that purpose to the necessary extent.

(5) This section does not operate to exclude or diminish obligations of the Treasurer under any other Act or law.

Fees in respect of provision of guarantees and indemnities.

20. (1) Subject to subsection (4), where—

(a) the Treasurer has provided a guarantee or indemnity either under this Act, the repealed Public Finance Act or under some other law;

or

(b) a guarantee or indemnity by the Treasurer has arisen by operation of law,

the Treasurer may, during the currency of the guarantee or indemnity, charge periodic fees in respect of the provision of the guarantee or indemnity.

(2) The amount of a periodic fee to be charged by the Treasurer under subsection (1) will, subject to the regulations, be fixed by the Treasurer.

(3) A fee charged by the Treasurer under this section may be recovered as a debt.

(4) The powers conferred by this section must not be exercised in relation to a guarantee under section 14 of the Industries Development Act, 1941.

DIVISION V—DEPOSITS

Deposits.

21. (1) The Treasurer may accept money on deposit from any person on such terms and conditions as the Treasurer thinks fit.

(2) Money deposited under subsection (1) must be recorded in a separate account maintained by the Treasurer for that purpose.

DIVISION VI—TREASURER'S STATEMENTS AND STATEMENTS OF PUBLIC AUTHORITIES

Treasurer's statements.

22. The Treasurer must, within 2 months after the expiration of each financial year deliver to the Auditor-General—

(a) the following statements in relation to that financial year:

(i) a statement of the estimated and actual receipts to and payments from the Consolidated Account for that financial year classified under the headings and sub-headings, and in the form of, the estimates of receipts and payments laid before Parliament supporting the annual Appropriation Act for that year;

(ii) a statement of the sources and application of money recorded in the public accounts;

(iii) a statement of the payments of a recurrent nature made from the Consolidated Account for the financial year, classified and arranged to show the net recurrent cost to the Consolidated Account of each of the various functions of Government and the total net cost of all such functions and the funds which have been applied to meet the total net cost;

(iv) a statement naming the organizations, other than SAFA, with which the Treasurer invested funds during the financial year;

(v) a statement of—

(A) the special deposit accounts opened during the financial year;

(B) the special deposit accounts in operation at the end of the financial year and the purpose for which each account was opened;

(C) the value of the debits and the value of the credits entered in each special deposit account during the financial year and the balance of each account at the end of the financial year;

(vi) a statement of the balances at the end of that financial year of all deposits lodged with the Treasurer;

(vii) a statement of the imprest accounts in operation at the end of the financial year and the amount of unappropriated money paid into each account;

(viii) a statement of the total indebtedness of the Treasurer;

(ix) a statement of—

(A) the amounts deposited or invested with, or otherwise provided by the Treasurer to, SAFA and the terms and conditions on which they were deposited, invested or otherwise provided;

(B) the details of all transactions between the Treasurer and SAFA that are relevant to a proper assessment of the State's financial position;

(x) the financial statements of SAFA for the financial year;

(xi) a statement of—

(A) the maximum amount that could have been appropriated from the Governor's Appropriation Fund pursuant to section 12;

(B) the purposes for which money has been issued and applied from the Governor's Appropriation Fund and the amounts issued and applied;

(xii) a statement of any amounts that were appropriated for a particular purpose but applied for another purpose in pursuance of section 13 and of the purposes for which those amounts were appropriated and of the purposes for which they were applied;

(xiii) a statement of the Acts of Parliament under the authority of which money has been issued and applied from the Consolidated Account and the amounts issued and applied;

(xiv) any other statements that the Treasurer thinks necessary;

and

(b) such written explanation of the statements as may be necessary.

Delivery of financial statements to Auditor-General by public authority.

23. (1) Subject to subsections (3) and (4), every public authority must, within 42 days after the end of the financial year of the authority, deliver to the Auditor-General financial statements relating to that financial year that comply with the Treasurer's instructions.

(2) The Chief Executive Officer, and the officer responsible for the financial administration, of each public authority must provide the Auditor-General (or the Treasurer in the case of the administrative unit established to assist the Auditor-General) with a certificate that the statements are in accordance with the accounts and records of the authority and give an accurate indication of the financial transactions of the authority for that year and, in the case of a prescribed public authority, the financial position of the authority at the end of that year.

(3) The Treasurer must deliver the financial statements of SAFA to the Auditor-General when delivering the Treasurer's statements under section 22.

(4) The administrative unit established to assist the Auditor-General in carrying out the Auditor-General's functions under this Act must deliver its financial statements to the Treasurer.

PART III

AUDIT

DIVISION I—THE AUDITOR-GENERAL

Appointment of Auditor-General.

24. (1) There will be an Auditor-General.

(2) The Auditor-General will be appointed by the Governor.

(3) The conditions of office of the Auditor-General will, subject to this Act, be determined by the Governor.

(4) The salary and allowances of the Auditor-General will be determined by the Remuneration Tribunal and will be paid from the Consolidated Account which is appropriated for that purpose to the necessary extent.

(5) The conditions of office of the Auditor-General must not be varied while the Auditor-General is in office so as to become less favourable to the Auditor-General.

(6) The Auditor-General is not subject to the direction of any person as to—

(a) the manner in which functions are carried out or powers are exercised by the Auditor-General under this Act;

or

(b) the priority that he or she gives to a particular matter in carrying out functions under this Act.

Assistance in carrying out Auditor-General's function.

25. (1) The Governor must establish an administrative unit pursuant to the Government Management and Employment Act, 1985, to assist the

Auditor-General in carrying out the Auditor-General's functions under this Act.

(2) The Auditor-General will have the powers and functions of a Chief Executive Officer under the Government Management and Employment Act, 1985, in relation to the administrative unit established under subsection (1) and the provisions of sections 36 and 37 of that Act do not apply in relation to that administrative unit.

(3) The Auditor-General may, on such conditions as the Auditor-General thinks fit, engage any person to provide services that are, in the Auditor-General's opinion, necessary or desirable to assist the Auditor-General in carrying out his or her functions under this Act.

Suspension of Auditor-General from office.

26. (1) The Governor may suspend the Auditor-General from office—

(a) for incompetence;

(b) for mental or physical incapacity to carry out official duties satisfactorily;

(c) for neglect of duty;

(d) if the Auditor-General, without the written approval of the Governor, enters into paid employment, practises a profession or carries on a business on his or her own account;

(e) for failure to comply with the conditions of the Auditor-General's appointment;

or

(f) for dishonourable conduct.

(2) The Governor must—

(a) when suspending the Auditor-General deliver to him or her a statement of the reasons for the suspension;

and

(b) within 3 sitting days after the suspension deliver to the President of the Legislative Council and the Speaker of the House of Assembly a copy of the statement and the President and the Speaker must lay the copy before their respective Houses.

(3) The Auditor-General may deliver to the Governor and to the President of the Legislative Council and the Speaker of the House of Assembly a reply to the Governor's statement and the President and the Speaker must lay the reply before their respective Houses.

(4) The Auditor-General will be restored to office without loss of salary or other benefits unless, within 14 sitting days after the statement referred to in subsection (2) was laid before both Houses, the Auditor-General is removed from office by resolution of both Houses of Parliament.

Vacation of office of Auditor-General.

27. The office of Auditor-General becomes vacant if the Auditor-General—

(a) dies;

(b) resigns by written notice to the Governor;

(c) attains the age of 65;

(d) becomes a member of Parliament of the State, the Commonwealth or of any other State of the Commonwealth or becomes a member of the Legislative Assembly of a Territory of the Commonwealth;

(e) is convicted of an indictable offence or is punished for any offence by imprisonment;

(f) becomes bankrupt, applies (as a debtor) to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his or her creditors for less than 100 cents in the dollar;

(g) is absent from official duties for more than 30 days in any financial year without the leave of the Governor;

(h) is removed from office by resolution of both Houses of Parliament.

Appointment of Deputy Auditor-General.

28. (1) There will be a Deputy Auditor-General.

(2) The Deputy Auditor-General will be appointed under, and will hold office subject to, the Government Management and Employment Act, 1985.

(3) The Deputy Auditor-General will act in the office of Auditor-General during any absence or incapacity of the Auditor-General or during a vacancy in the office of Auditor-General.

Declaration to be made by Auditor-General and Deputy Auditor-General.

29. Before undertaking their functions under this Act the Auditor-General and the Deputy Auditor-General must make a declaration in the prescribed form before Executive Council to act impartially in carrying out those functions.

Obligation to assist Auditor-General.

30. A person who is able to assist the Auditor-General or an authorized officer in conducting an audit or making an examination under this Act by providing accounts, records or other documents or any other information or by giving the Auditor-General or authorized officer access to any premises must give that assistance if requested to do so by the Auditor-General or authorized officer.

Division II—Audit of Public and Other Accounts

Audit of public accounts, etc.

31. (1) The Auditor-General must—

(a) audit the public accounts in respect of each financial year;

(b) audit the accounts of each public authority in respect of the financial year of each authority.

(2) When conducting an audit under subsection (1) *(b)* the Auditor-General may examine the efficiency and economy with which a public authority uses its resources.

(3) The Auditor-General will not audit the accounts of the administrative unit established to assist the Auditor-General in carrying out his or her functions under this Act.

Examination of accounts of publicly funded body.

32. The Auditor-General must, if requested by the Chief Secretary, examine the accounts of a publicly funded body that relate to public money granted or lent to the body.

Audit of other accounts.

33. (1) Where a public authority carries out its functions partly or wholly in partnership or jointly with another person or through the instru-

mentality of a body corporate or other person or by means of a trust the Chief Executive Officer of the public authority must give written notice of that fact to the Auditor-General.

(2) The Auditor-General may audit accounts made by a body corporate, trustee, partner or other person relating to functions carried out on behalf of or in partnership or jointly with a public authority or to functions carried out as the delegate or agent of a public authority and may examine the efficiency and economy with which the body corporate, trustee, partner or other person carries out those functions.

DIVISION III—AUDITOR-GENERAL'S POWERS TO OBTAIN INFORMATION

Powers of the Auditor-General to obtain information.

34. (1) The Auditor-General or an authorized officer may, in order to conduct an audit or make an examination under this Act—

(a) by summons, require the appearance of any persons or the production of any relevant accounts, records or other documents;

(b) inspect any such accounts, records or other documents and retain them for such reasonable period as he or she thinks fit, and make copies of them or of any of their contents;

(c) require a person who has access to information that is, in the opinion of the Auditor-General or the authorized officer, relevant to the audit or examination, to provide that information to the Auditor-General or the authorized officer in writing;

(d) require a person appearing before him or her to make an oath or affirmation (which the Auditor-General or authorized officer may administer) to answer truthfully all questions relating to an audit or examination under this Act and to any accounts, records or other documents that are the subject of, or are related to, an audit or examination under this Act;

(e) inspect—

(i) any building or other premises;

(ii) any cash or goods situated in or on any building or other premises;

and

(iii) the operation of any public authority (or any agent, trustee, partner or other person who carries out the functions of a public authority) conducted in or on any building or other premises;

(f) enter any building or other premises for the purpose of exercising the powers set out in this subsection.

(2) If a person—

(a) who has been served with a summons to appear before the Auditor-General or an authorized officer fails, without reasonable excuse, to appear in obedience to the summons;

(b) who has been served with a summons to produce relevant accounts, records or other documents fails, without reasonable excuse, to comply with the summons;

(c) who has been required to provide information to the Auditor-General or an authorized officer—

(i) fails, without reasonable excuse, to do so in the form directed by the Auditor-General or authorized officer;

or

(ii) provides information knowing it to be false or inaccurate in a material particular;

(d) refuses to be sworn or to affirm, or refuses or fails to answer truthfully any relevant question, when required to do so by the Auditor-General or an authorized officer;

(e) hinders or obstructs the Auditor-General or an authorized officer in the exercise of any powers under this section,

that person is guilty of an offence and liable to a penalty of $5 000 or imprisonment for a term not exceeding 3 months.

(3) A person may be required—

(a) to answer a question put by the Auditor-General or an authorized officer notwithstanding that the answer to that question might result in, or tend towards, self-incrimination;

(b) to produce any accounts, records or other documents notwithstanding that the production might result in, or tend towards, self-incrimination;

or

(c) to provide information notwithstanding that the information might result in, or tend towards, self-incrimination,

but if that person objects to answering a question, a written note of that objection shall be made by the Auditor-General or the authorized officer and the answer shall not be admissible against that person in any criminal proceedings (except in proceedings for perjury or proceedings under this section).

DIVISION IV—AUDIT OF THE ACCOUNTS OF THE AUDITOR-GENERAL

Audit of accounts of the Auditor-General.

35. (1) The Governor may appoint an auditor who is registered under the *Companies (South Australia) Code* to audit the accounts of the administrative unit established to assist the Auditor-General under this Act.

(2) The auditor will, in conducting an audit and preparing a report under this Division, have the same powers, and be subject to the same requirements, as the Auditor-General when auditing, and reporting on, the accounts of other public authorities.

(3) The auditor must deliver to the Auditor-General and the Treasurer a report of the audit conducted under this section.

DIVISION V—THE AUDITOR-GENERAL'S REPORT

Auditor-General's annual report.

36. (1) The Auditor-General must prepare an annual report that—

(a) states whether, in the Auditor-General's opinion—

(i) the Treasurer's statements reflect the financial transactions of the Treasurer as shown in the accounts and records of the Treasurer for the preceding financial year;

(ii) the financial statements of each public authority reflect the financial transactions of the authority as shown in the accounts and records of the authority for the preceding financial year of the authority and, in the case of a prescribed public authority, reflect the financial position of the authority;

(iii) the controls exercised by the Treasurer and public authorities in relation to the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities is sufficient to provide reasonable assurance that the financial transactions of the Treasurer and public authorities have been conducted properly and in accordance with law;

and

(b) sets out any matter that should, in the opinion of the Auditor-General, be brought to the attention of Parliament and the Government.

(2) The Auditor-General must, not later than the prescribed date, deliver copies of—

(a) the report;

(b) the Treasurer's statements and the financial statements of the public authorities;

and

(c) the financial statements of the administrative unit established to assist the Auditor-General and the report of an audit (if any) made pursuant to Division IV,

to the President of the Legislative Council and the Speaker of the House of Assembly.

Recommendations by Auditor-General.

37. (1) Where, in the opinion of the Auditor-General, action is necessary or desirable in the public interest in relation to a matter that has come to the attention of the Auditor-General in the course of an examination of the efficiency and economy with which a public authority uses its resources, the Auditor-General must prepare a report recommending the action that, in the Auditor-General's opinion, is necessary or desirable in relation to that matter.

(2) The Auditor-General must provide the Chief Executive Officer of a public authority with a draft of a proposed report under subsection (1) in respect of that authority and must afford the Chief Executive Officer a sufficient opportunity to reply in writing.

(3) The Auditor-General must—

(a) deliver the report and any reply from the Chief Executive Officer of the public authority in response to the report to the Treasurer and to the responsible Minister;

and

(b) inform the President of the Legislative Council and the Speaker of the House of Assembly of the matter, either by way of the annual report or by way of a special report prepared for the purpose.

Reports and other documents to be tabled before Parliament.

38. The President of the Legislative Council and the Speaker of the House of Assembly must, not later than the first sitting day after receiving a report and other documents from the Auditor-General under this Division, lay them before their respective Houses.

DIVISION VI—AUDIT FEES

Audit fees.

39. (1) Where the Auditor-General audits the accounts of a public authority, publicly funded body or other person the authority, body or person may be required to pay a fee to the Auditor-General.

(2) The Auditor-General will, with the approval of the Treasurer, fix the amount of the fee.

(3) The fee may be recovered by action in a court of competent jurisdiction.

PART IV

MISCELLANEOUS

Treasurer's quarterly statement.

40. (1) The Treasurer must publish a statement in the *Gazette* in respect of each quarter setting out the following—

(a) details of the amounts credited to and issued from the Consolidated Account;

(b) a summary of differences between those amounts and the amounts of money credited to and issued from the Consolidated Account during the corresponding quarter in the previous financial year;

(c) any explanation that the Treasurer considers necessary of differences between the Treasurer's forecasts of the amounts to be credited to and issued from the Consolidated Account and the amounts in fact credited and issued.

(2) In this section—

"quarter" means a period of 3 months ending on 30 September, 31 December, 31 March or 30 June.

Treasurer's instructions.

41. (1) The Treasurer may issue instructions—

(a) requiring accounts to be maintained and records to be made and kept by the Treasurer and public authorities and setting out the form and content of those accounts and records;

(b) setting out the form and content of financial statements that must be prepared by the Treasurer and public authorities pursuant to this Act;

(c) requiring that procedures, set out in the instructions, be followed in the course of financial administration by the Treasurer and public authorities;

(d) requiring that procedures, set out in the instructions, be followed in the operation of special deposit accounts.

(2) A person who contravenes or fails to comply with an instruction issued by the Treasurer under this section is guilty of an offence.

Penalty: $1 000.

(3) The Treasurer may revoke or vary an instruction issued under this section.

(4) When issuing, revoking or varying instructions under this section the Treasurer shall have regard to accounting practices and standards adopted by the Australian Society of Accountants and The Institute of Chartered Accountants in Australia.

Summary offences.

42. The offences constituted by this Act are summary offences.

Regulations.

43. (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(2) In particular those regulations may—

(a) prescribe requirements for the proper management of money by the Treasurer and public authorities;

and

(b) impose a penalty, not exceeding $1 000, for contravention of, or failure to comply with, a regulation.

SCHEDULE

TRANSITIONAL PROVISIONS

Special deposit accounts.

1. A reference in this Act to a special deposit account includes an account that was a special deposit account, or was deemed to be a special deposit account, under the repealed Public Finance Act immediately before the commencement of this Act.

Auditor-General and Deputy Auditor-General.

2. (1) The person who, immediately before the repeal of the Audit Act, 1921, by this Act, held the office of Auditor-General will be deemed to have been appointed to the office of Auditor-General under this Act (without loss of accrued and accruing rights) on the conditions subject to which that person held office under the repealed Act.

(2) The first Deputy Auditor-General under this Act will be the person who held the office of Deputy Auditor-General immediately before the repeal of the Audit Act, 1921, by this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 55 of 1987

An Act to amend the Industrial Conciliation and Arbitration Act, 1972.

[*Assented to 7 May 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Industrial Conciliation and Arbitration Act Amendment (Statute Law Revision) Act, 1987".

(2) The Industrial Conciliation and Arbitration Act, 1972, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of principal Act.

3. (1) The principal Act is amended in the manner indicated in the schedule.

(2) If the principal Act is, before the commencement of this Act, amended in a manner that renders an amendment sought by this Act ineffective, the amendment sought by this Act will not apply.

SCHEDULE

Section Amended	How Amended
Section 2	Strike out this section.
Sections 4 and 5	Strike out these sections.
Section 6 (1) definition of "allowances"	Strike out this definition and substitute: "allowances" means allowances, concessions or customary payments in kind that have an assessable monetary value, but does not include— *(a)* uniforms; *(b)* privilege tickets or passes; *(c)* allowances or concessions granted to employees while in camp; *(d)* any other allowances, concessions or customary payments in kind declared by regulation not to be allowances for the purposes of this definition:.
definition of "apprentice"	Strike out this definition and substitute: "apprentice" means an apprentice as defined in the Industrial and Commercial Training Act, 1981:.
definition of "award"	Strike out "whether such award, order or variation was made before or after the commencement of this Act".
definition of "club"	Strike out this definition.
new definitions	After the definition of "Committee" insert the following: "the Commonwealth Act" means the *Conciliation and Arbitration Act* 1904 of the Commonwealth, and includes any Act passed in substitution for that Act: "the Commonwealth Commission" means the Australian Conciliation and Arbitration Commission:.
definition of "council"	Strike out "as amended and includes the Garden Suburb Commissioner for the time being appointed under the Garden Suburb Act, 1919, as amended".
new definition	After the definition of "Court" insert the following definition: "decision" where used in reference to an appeal or right of appeal includes an omission, failure or refusal to make a decision:.
definition of "employee"	Strike out from paragraph *(b)* "his" and substitute "the person's". Strike out from paragraph *(b)* "who has so engaged him" and substitute "by whom that person has been so engaged". Strike out from paragraph *(c)* "who has so engaged him" and substitute "by whom that person has been so engaged". Strike out from paragraph *(d)* "he" and substitute "the person". Strike out from paragraph *(e)* "his" and substitute "his or her". Strike out paragraph *(g)* and substitute: *(g)* any person, or member of a class, excluded by regulation from the ambit of this definition:.
definition of "employer"	Strike out "who or which on behalf of himself or itself or another employs" and substitute "that employs (as principal or agent)". Strike out paragraphs *(a)* and *(b)* and substitute: *(a)* in relation to public employees, means the Commissioner for Public Employment;. Strike out from paragraph *(d)* ", whether corporate or unincorporate, who" and substitute "that". Strike out from paragraph *(d)* "personally the work" and substitute "the work personally".

Section Amended	How Amended
definition of "Full Court"	Strike out this definition and substitute: "the Full Court" means the Court constituted of not less than two Judges:.
definition of "improver"	Strike out this definition.
definition of "industrial agreement"	Strike out this definition and substitute: "industrial agreement" means— *(a)* an industrial agreement filed under section 108; *(b)* an industrial agreement that is continued in operation as an industrial agreement pursuant to section 112; or *(c)* an industrial agreement that was in force immediately before the commencement of this Act and to or in relation to which this Act continues to apply:.
definition of "industrial dispute"	Strike out all words following "probable dispute as to any industrial matter".
definition of "industrial matter"	Strike out from paragraph *(d)* "and improvers and juvenile workers" and substitute "and juniors".
definition of "juvenile"	Strike out this definition and substitute: "junior" means an employee who has not attained the age of 21 years and who is not an apprentice:.
definition of "legal practitioner"	Strike out "Legal Practitioners Act, 1936, as amended" and substitute "Legal Practitioners Act, 1981".
definition of "metropolitan area"	Strike out this definition and substitute: "metropolitan area" means the area comprised of— *(a)* Metropolitan Adelaide as defined in the Development Plan compiled under the Planning Act, 1982; *(b)* the City of Adelaide; and *(c)* that part of the municipality of Gawler that is not within the area referred to in paragraph *(a)*:.
definition of "prescribed employer"	Strike out this definition and substitute: "prescribed employer" means— *(a)* in relation to public employees—the Commissioner for Public Employment; *(b)* any council; *(c)* the State Bank of South Australia; *(d)* the South Australian Meat Corporation; *(e)* the South Australian Metropolitan Fire Service; *(f)* the Electricity Trust of South Australia; *(g)* the State Transport Authority; *(h)* the South Australian Housing Trust; *(i)* the Lotteries Commission of South Australia; *(j)* the South Australian Totalizator Agency Board; and

Section Amended	How Amended
	(k) any other body or person constituted by or under any Act or any instrumentality or agency of the Crown that is declared by regulation to be a prescribed employer for the purposes of this Act:.
new definition	After the definition of "Presidential Member" insert the following: "public employee" means— *(a)* any person employed under, or subject to, the Government Management and Employment Act, 1985; and *(b)* any other person employed for salary or wages in the service of the State:.
definition of "Public Service Board"	Strike out this definition.
definitions of "public service employee" and "railway employee"	Strike out these definitions.
definition of "registered association"	Strike out ", pursuant to this Act,".
definition of "Rules"	Strike out "he" and substitute "the President".
definition of "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth"	Strike out this definition.
Section 6	After subsection (1) insert the following: (1a) For the purposes of this Act— *(a)* an industrial dispute shall be deemed to have arisen in every case in which the Commission in its discretion so decides; and *(b)* an industrial dispute does not cease by reason of the cessation, in consequence of the dispute, of the relationship of employer and employee between the parties or any of them. (1b) For the purposes of any award— *(a)* "club" means a body, whether corporate or unincorporate, whose members associate for any social, literary, political, sporting, athletic or similar purpose; and *(b)* (i) a reference to the Industrial Code, 1920, or a provision of that Act shall, so far as the context admits, be construed as a reference to this Act or a provision of this Act that corresponds with a provision of that Act; and (ii) a reference to a Part or provision of the Industrial Code, 1967, that is repealed by this Act shall, so far as the context admits, be construed as a reference to a Part or provision of this Act that corresponds with that repealed Part or provision.
Section 6 (2)	Strike out "its or his".
Section 6 (3)	After "Public Service Board" twice occurring insert, in each case, "or the Commissioner for Public Employment".
Section 7	Strike out this section.
Section 8 (1)	Strike out this subsection and substitute: (1) The Industrial Court of South Australia continues in existence.
Section 9 (2)	Strike out "he" twice occurring and substitute, in each case, "that person".

Section Amended	How Amended
Section 9 (2a)	Strike out "his" first occurring and substitute "the". Strike out "his" second occurring.
Section 9 (3)	Strike out "of the Court" first occurring. Strike out "the functions of his".
Section 10 (1)	Strike out "the duties of his office" and substitute "official duties". Strike out "of the Court" second occurring. Strike out "the office of President" and substitute "that office".
Section 10 (1a)	Strike out "his office" and substitute "the office of President".
Section 10 (2)	Strike out "of the Court" second and third occurring.
Section 12 (1)	Strike out "of the Court" first occurring. Strike out "he attains".
Section 12 (1a)	Strike out "his" and substitute "the".
Section 12 (2)	Strike out "of the Court" first occurring. After "may" insert ", after ceasing to hold office,". Strike out "proceedings part-heard by him at the time that he ceases to hold office" and substitute "part-heard proceedings". Strike out "the office of President or, as the case may be, of Deputy President" and substitute "office".
Section 12 (3)	Strike out "of the Court" first occurring. Strike out "at any time preceding his attainment of sixty-five years of age" and substitute "before attaining the age of 65 years".
Section 12 (4)	Strike out "of the Court" first occurring.
Section 15 (1) *(d)*	Strike out this paragraph and substitute: *(d)* to hear and determine— (i) a claim for a sum due to an employee or former employee from an employer or former employer pursuant to this Act or pursuant to a contract that is governed by an award or industrial agreement; (ii) a claim for a sum due to an employer or former employer from an employee or former employee pursuant to this Act or pursuant to a contract that is governed by an award or industrial agreement;.
Section 15 (2), (3) and (4)	Strike out these subsections and substitute: (2) ~~A reference in subsection (1) *(d)* to a contract~~ that is governed by an award or industrial agreement extends to a contract that is governed by an award or industrial agreement made, certified or having effect under this Act or the Commonwealth Act, but does not extend to a contract that is governed by an award under section 25a of this Act and by no other award or industrial agreement. (3) A claim or application under subsection (1) *(d)*— *(a)* may be made personally or, where the claimant is an employee or former employee, may be made on behalf of the claimant by a registered association; *(b)* may be made by a minor as if the minor had attained the age of majority; and *(c)* must be made within three years after the sum claimed became payable.

deleted and substituted 3rd/1991

Section Amended	How Amended
	(4) In the exercise of its jurisdiction under subsection (1) *(d)*, the Court— *(a)* may not proceed to hear and determine a claim if it appears to the Court that proceedings in relation to that claim have been commenced in another court and that those proceedings have not been withdrawn or struck out; *(b)* subject to subsection (5), should not award costs; and *(c)* will be governed in its procedure, judgment, orders and decisions by equity, good conscience and the substantial merits of the case, without regard to technicalities, legal forms or the practice of other courts, and will not be bound by any rules or practice as to evidence but may inform itself on any matter in such manner as it thinks just. (5) Where an appeal is commenced against a decision or order of the Court in the exercise of its jurisdiction under subsection (1) *(d)* and that appeal is not allowed or is withdrawn, the appellate court may award costs against the appellant. (6) Costs awarded under subsection (5) will be— *(a)* an amount assessed by the appellate court; or *(b)* an amount taxed by the Registrar in accordance with a scale fixed by the rules. (7) Where the Court gives a judgment, or makes an order, for the payment of a pecuniary sum, it may, by the terms of the judgment or order, authorize the payment of that sum by instalments.
Section 16	Strike out this section and substitute: 16. Subject to any other Act, any party may be represented in proceedings before the Court by a legal practitioner or agent.
Section 17 (1) *(c)*	Strike out this paragraph.
Section 17 (1a)	After subsection (1a) insert the following: (1b) Subject to this Act, the Court has a discretion to hear and determine any matter within its jurisdiction as it thinks fit and to make such order in relation to the matter as it thinks fit.
Section 17 (2) *(c)*	Strike out "hereinbefore mentioned" and substitute "referred to in paragraph *(a)* or *(b)*".
Section 17 (3) *(a)*	Strike out "the Court, any member thereof or any person authorized under subsection (2) of this section" and substitute "the Court, a member of the Court or a person authorized by the Court".
Section 17 (3) *(b)*	Strike out this paragraph and substitute: *(b)* refuse to the Court, a member of the Court or a person authorized by the Court entrance to any place, premises, ship or vessel to which entry is authorized under subsection (2);.
Section 17 (3) *(c)*	Strike out "to him pursuant to subsection (2) of this section" and substitute "pursuant to subsection (2)".
Section 17 (4)	Strike out "as to the proceedings or the conduct thereof as to it shall seem just and proper" and substitute "as it considers just and proper in relation to the institution and conduct of proceedings".
Section 17 (4) *(c)*	Strike out this paragraph and substitute: *(c)* any steps to be taken with a view to the more expeditious and efficient disposal of proceedings.

Section Amended	How Amended
Section 18	Strike out this section.
Section 19 (1)	Strike out "makes an order, or gives a direction to" and substitute "orders". Strike out "or direction was given".
Section 19 (2)	Strike out "him" and substitute "the clerk".
Section 19 (3)	Strike out "mentioned therein" and substitute "to which it relates".
Section 19 (5)	Strike out "an affidavit made" and substitute "an affidavit, made by the judgment creditor or by some other person cognizant of the facts,". Strike out "and the affidavit shall be made by the judgment creditor or by some other person cognizant of the facts".
Section 19 (7), (8) and (9)	Strike out these subsections and substitute: (7) The power to make rules of court under the Local and District Criminal Courts Act, 1926, includes a power to make rules regulating the practice and procedure relating to the registration of certificates under this section, the conduct of subsequent proceedings and the payment of court fees.
Section 20 (1)	Strike out this subsection and substitute: (1) The Industrial Commission of South Australia continues in existence.
Section 21	Strike out this section.
Section 22 (3)	Strike out this subsection and substitute: (3) The Governor may make further appointments specifically to the office of Deputy President of the Commission.
Section 22 (4)	Strike out "his" first occurring and substitute "the". Strike out "his" second occurring.
Section 22 (5)	After "unless" insert "that person". Strike out "he" wherever it occurs.
Section 22 (5) *(c)*	Strike out "the field of ".
Section 22 (5)	Strike out "his" and substitute "his or her".
Section 22 (7)	After "the President," insert "continue to". Strike out "proceedings previously part-heard by him" and substitute "part-heard proceedings". Strike out "he".
Section 23 (3)	After "the President," insert "continue to". Strike out "proceedings previously part-heard by him" and substitute "part-heard proceedings". Strike out "he".
Section 23 (7)	Strike out "Public Service Act, 1967" and substitute "Part III of the Government Management and Employment Act, 1986".
Section 23 (8)	Strike out "Superannuation Act, 1969, as amended" and substitute "Superannuation Act, 1974".
Section 23 (9)	Strike out "his acceptance of " and substitute "accepting". Strike out ", which shall be taken".
Section 23 (10)	Strike out "the duties of his office" and substitute "official duties". Strike out "he" first occurring and substitute "that person". Strike out "he" second occurring and substitute "he or she".
Section 24 (4)	Strike out this subsection and substitute: (4) Where the Commission is constituted of more than one member, a decision in which a majority of the members concur is a decision of the Commission.

Section Amended	How Amended
Section 25 (3)	Strike out "shall have" and substitute "has".
Section 25a (4) *(c)*	Strike out this paragraph and substitute: *(c)* the Chamber of Commerce and Industry, South Australia Incorporated;.
Section 26 (1)	Strike out "he" and substitute "the Presidential Member or Commissioner".
Section 26 (1) *(b)*	Strike out "himself act" and substitute "act personally".
Section 26 (1a) *(a)*	Strike out "chairman" and substitute "presiding officer".
Section 26 (1a) *(b)*	Strike out "chairman" and substitute "presiding officer".
Section 26 (2)	Strike out "and who makes application to the Registrar shall on application" and substitute "will, on application to the Registrar,". Strike out "which is hereby to the necessary extent appropriated accordingly," and substitute "(which is appropriated to the necessary extent)".
Section 27 (1)	Strike out "on his own motion" and substitute "in the exercise of a personal initiative". Leave out "himself" from paragraph *(c)*. Transpose and redesignate the paragraphs so that paragraph *(c)* becomes paragraph *(a)*, paragraph *(a)* becomes paragraph *(b)* and paragraph *(b)* becomes paragraph *(c)*.
Section 27 (1a) *(a)*	Strike out "chairman" and substitute "presiding officer".
Section 27 (1a) *(b)*	Strike out "chairman" and substitute "presiding officer".
Section 27 (3)	Strike out "he" and substitute "the person".
Section 27 (5)	Strike out "who is summoned under this section, who attends pursuant to that summons and who continues his attendance as directed by the person presiding at the conference and who makes application to the Registrar shall, on application, be entitled to be paid out of the General Revenue of the State, which is hereby to the necessary extent appropriated accordingly," and substitute "who, having been summoned under this section, attends a conference as directed by the person presiding at the conference will, on application to the Registrar, be entitled to be paid out of the General Revenue of the State (which is appropriated to the necessary extent)".
Section 27 (6)	Strike out "him" and substitute "that person". Strike out "his".
Section 27 (7)	Strike out "that is a contravention of" and substitute "against". After "his" insert "or her".
Section 27 (8) *(a)*	Strike out "he" and substitute "the person".
Section 27 (8) *(b)*	After "his" insert "or her".
Section 27 (8) *(c)*	After "his" insert "or her".
Section 27 (9)	Strike out "Whenever in the opinion of the person presiding at the conference it is desirable to do so, he may" and substitute "The person presiding at the conference, if of the opinion that it is desirable to do so, may". Strike out "he" second occurring and substitute "the person presiding". After "himself" insert "or herself".
Section 28 (1) *(b)* and *(c)*	Strike out these paragraphs and substitute: *(b)* to direct that summonses be issued, or notice of the proceedings be given, to persons who should, in its opinion, be summoned to appear or receive notice of the proceedings;.

Section Amended	How Amended
Section 28 (1) *(e)*	Strike out "that" and substitute "a".
Section 28 (1) *(k)*	Strike out "his" and substitute "that expert's".
Section 28 (2)	Strike out this subsection and substitute: (2) Subject to this Act, the Commission— *(a)* has a discretion to determine a matter as it thinks fit; and *(b)* may exercise its powers on such terms and conditions as it thinks fit.
Section 28 (3) *(c)*	Strike out "hereinbefore mentioned" and substitute "referred to in paragraph *(a)* or *(b)*".
Section 28 (4) *(a)*	Strike out "the Commission or any person authorized under subsection (3) of this section" and substitute "the Commission, a member of the Commission or a person authorized by the Commission".
Section 28 (4) *(b)*	Strike out this paragraph and substitute: *(b)* refuse to the Commission, a member of the Commission or a person authorized by the Commission entrance to any place, premises, ship or vessel to which entry is authorized under subsection (3);.
Section 28 (4) *(c)*	Strike out "to him pursuant to subsection (3) of this section" and substitute "pursuant to subsection (3)".
Section 28 (5)	After "practice to the contrary" insert ", the Commission, in the exercise of any jurisdiction, power or function conferred or imposed by or under this Act".
Section 28 (5) *(a)*	Strike out "the Commission, in the exercise of any jurisdiction, duty, power or function conferred or imposed by or under this Act,".
Section 28 (5) *(b)*	Strike out "the Commission, in the exercise of any such jurisdiction, duty, power, or function,". Strike out "its mind" and substitute" itself ".
Section 29 (4) *(a)* (ii)	Strike out "the *Conciliation and Arbitration Act* 1904 of the Commonwealth" and substitute "the Commonwealth Act".
Section 29 (4) *(b)*	Strike out "the Australian Conciliation and Arbitration Commission" and substitute "the Commonwealth Commission".
Section 29 (6)	Strike out "chairman" and substitute "person to preside over the proceedings".
Section 29 (8)	Strike out "the duties of his" and substitute "any duty of ".
Section 30 (1)	Strike out this subsection and substitute: (1) Except as otherwise provided in this Act, proceedings before the Commission shall be commenced by an application made to the Commission— *(a)* where, in the Minister's opinion, it is in the public interest that the matter be dealt with by the Commission—by the Minister; *(b)* by an employer, or group of employers, employing not less than 20 employees in the industry concerned or not less than 75 per cent of the employees in that industry (whichever is the less); *(c)* by not less than 20 employees in the industry concerned or not less than 75 per cent of the employees in that industry (whichever is the less); *(d)* by a registered association of employers the members of which employ not less than 20 employees in the industry concerned or not less than 75 per cent of the employees in that industry (whichever is the less);

Section Amended	How Amended
	or *(e)* by a registered association of employees the membership of which consists of, or includes, not less than 20 employees in the industry concerned or not less than 75 per cent of the employees in that industry (whichever is the less).
Section 32 (1) *(d)*	Strike out "from the date thereof".
Section 32 (1) *(e)*	Strike out "Apprentices Act, 1950, as amended" and substitute "Industrial and Commercial Training Act, 1981".
Section 33 (1)	Strike out "of its own motion" and substitute "on its own initiative".
Section 35	Strike out this section.
Section 36 (1)	Strike out "the Commonwealth Conciliation and Arbitration Commission" and substitute "the Commonwealth Commission".
Section 36 (2) and (3)	Strike out these subsections and substitute: (2) An order may be made under subsection (1) by the Full Commission on its own initiative or on the application of— *(a)* the Minister; *(b)* the Chamber of Commerce and Industry, South Australia Incorporated; *(c)* The South Australian Employers' Federation Incorporated; *(d)* the United Trades and Labor Council; or *(e)* by leave of the President—any registered association.
Section 40 (4)	Strike out "he" and substitute "the President".
Section 40a (1)	Strike out "he" and substitute "the President".
Section 40a (2)	Strike out "he" and substitute "the President".
Section 40b (1)	Strike out "on his own motion" and substitute "on his or her own initiative".
Section 40b (2)	Strike out "him" and substitute "that member".
Section 40b (3)	Strike out "referred to him" and substitute "that is referred".
Section 40b (4)	Strike out "referred to him" and substitute "that is referred to the member".
Section 40b (6)	Strike out this subsection.
Section 40c (1)	Strike out "the *Conciliation and Arbitration Act* 1904 of the Commonwealth" and substitute "the Commonwealth Act".
Section 41 (1)	Strike out "of its own motion" and substitute "on its own initiative".
Section 43	Strike out this section and substitute: 43. (1) Where it appears to the Court or the Commission that service of a summons, notice or other document cannot be promptly effected on a party in a manner authorized or required by or under this Act, it may— *(a)* make an order for substituted service on a person, and in a manner, stipulated in the order; or *(b)* order that notice of the summons, notice or other document be given in a manner stipulated in the order.

Section Amended	How Amended
	(2) Compliance with an order under subsection (1) constitutes sufficient service of the summons, notice or other document to which the order relates.
Section 44 (1)	Strike out this subsection and substitute: (1) The Minister, if of the opinion that the public interest is likely to be affected by the award, order, decision or determination of the Court or Commission in any proceedings, may intervene in those proceedings and make such representations and tender such evidence as the Minister thinks necessary.
Section 45 (2)	Strike out this subsection and substitute: (2) Where a decision has been so reserved— *(a)* it may be delivered at a subsequent sitting of the Court or Commission (constituted of one or more of the members who participated in the decision, but not necessarily of all members who did so); or *(b)* it may be delivered on behalf of the Court or the Commission by the Registrar.
Section 45 (3)	Strike out "he deems" and substitute "the Registrar thinks".
Section 46	Redesignate as section 46 (1).
Section 46 (1) *(a)*	Strike out this paragraph and substitute: *(a)* on the application of any of the parties, the Registrar may issue a summons to any party or other person to appear and give evidence before the Court or the Commission;.
Section 46 (1) *(b)*	Strike out "in his possession or under his control" and substitute "in his or her possession or control".
Section 46 (1) *(c)*	Strike out "the information obtained therefrom" and substitute "information so obtained".
Section 46 (1) *(d)*	Strike out "and documents" wherever occurring and substitute in each case "or other documents".
Section 46 (1) *(f)*	After "him" insert "or her". Strike out "for his attendance and expenses".
Section 46 (1)	After subsection (1) insert the following: (2) A summons may, if the Registrar thinks fit, be addressed to more than one person. (3) The time and place at which a person is to appear in obedience to the summons must be stated in the summons.
Section 48 (4)	Strike out this subsection.
Section 49 (2)	Strike out "his".
Section 49 (2a)	Strike out "his" first occurring and substitute "the". After "his" second occurring insert "or her".
Section 49 (3)	Strike out this subsection.
Section 50 (1)	Strike out "he" and substitute "the inspector".
Section 50 (1) *(c)*	Strike out "hereinbefore mentioned" and substitute "referred to in paragraph *(a)* or *(b)*".
Section 50 (1a)	After "his" insert "or her".
Section 50 (2b) *(a)*	After "his" insert "or her".
Section 50 (3)	Strike out this subsection and substitute: (3) It is the duty of an employer at all reasonable times to facilitate, so far as may be practicable in the circumstances, the exercise by an inspector of powers under this section.
Section 50 (5) *(c)*	Strike out "to him".

Section Amended	How Amended
Section 50 (5) *(d)*	Strike out "him" and substitute "the person".
Section 51	After "his" twice occurring insert, in each case, "or her".
Section 52 (1)	Strike out this subsection and substitute: (1) No inspector or former inspector shall divulge the contents of any record of persons employed, or of the work done, in any industry except to the Minister or the officers of the Minister's department. Penalty: $2 000. (1a) No person who, being authorized by an award or order to do so, has inspected any record shall divulge the contents of the record so inspected except— *(a)* to the appropriate officials of his or her association; or *(b)* to the Court or the Commission. Penalty: $2 000.
Section 52 (2)	Strike out "his".
Part V, Division I, heading	Strike out "*CONCILIATION*".
Section 53 definition of "industry"	Strike out paragraph *(a)* and substitute: *(a)* any undertaking, trade or business, not being an undertaking, trade or business carried on by the Crown or any instrumentality or agency of the Crown— (i) in which persons are employed or engaged for remuneration; and (ii) which is not carried on by way of trade or for the purpose of gain;.
Section 54 (1)	Strike out this subsection and substitute: (1) The Full Commission may inquire into any of the following matters, namely: *(a)* whether, and if so what, Committees should be constituted in relation to an industry; *(b)* what number of members a Committee should have and, in relation to an existing Committee, whether the number of members should be increased or decreased; *(c)* to which— (i) part of the State; (ii) undertaking, trade or business, occupation or calling; (iii) classes of employers and employees, the jurisdiction of a Committee should extend; *(d)* whether a Committee should be dissolved.
Section 54 (2)	Strike out "of its own motion" and substitute "on its own initiative". After subsection (2) insert the following: (3) In an inquiry under this section, the Full Commission must, before arriving at a determination, consider whether the general interests of the community and of the employers and employees affected would be best and most conveniently served by the proposed determination.
Section 55	Strike out this section and substitute:

Section Amended	How Amended
	55. If a conflict arises in respect of the application of the awards of two or more Committees, an award of a Committee expressed to relate to the occupation or calling of a particular employee or class of employees in a trade or business or undertaking prevails over the terms of an award of a Committee expressed to relate to occupations or callings generally which in turn prevails over the terms of an award of a Committee expressed to relate to a particular trade, business or undertaking.
Section 58 (1)	Strike out "chairman" and substitute "presiding officer". After "the number of members" insert "(not exceeding eight)".
Section 59 (1)	Strike out "chairman" and substitute "presiding officer".
Section 59 (2)	Strike out "chairman" and substitute "presiding officer".
Section 59 (3)	Strike out "chairman" first, second and third occurring and substitute, in each case, "presiding officer". Strike out "chairman" fourth occurring and substitute "the presiding officer".
Section 59 (4)	Strike out "chairman" twice occurring and substitute, in each case, "presiding officer".
Section 69 (2)	Strike out "the duties of his" and substitute "any duty of".
Section 69 (5)	Strike out "Chairman" and substitute "presiding officer of the Committee".
Section 69 (7) *(a)* (iii)	Strike out "the *Conciliation and Arbitration Act* 1904 of the Commonwealth" and substitute "the Commonwealth Act".
Section 69 (7) *(b)*	Strike out "the Australian Conciliation and Arbitration Commission" and substitute "the Commonwealth Commission".
Section 69a	Strike out "chairman" and substitute "presiding officer". Strike out "he" and substitute "the presiding officer". Strike out "himself" from paragraph *(b)*. Transpose and redesignate the paragraphs so that paragraph *(a)* becomes paragraph *(b)* and paragraph *(b)* becomes paragraph *(a)*.
Section 70 (1)	Strike out ", upon his appointment" and substitute "on being appointed". Strike out "on the expiration of the term of a Committee of which he has been a member" and substitute "to the same Committee".
Section 71	Strike out "chairman" twice occurring and substitute, in each case, "presiding officer".
Section 72 (2)	Strike out "his".
Part V, Division III, heading	Strike out "*CONCILIATION*".
Section 73 (1) and (2)	Strike out these subsections and substitute: (1) Except as provided in section 75, proceedings before a Committee shall be commenced by an application in the prescribed form made to the Committee, in accordance with subsection (2), by or on behalf of employers or employees in the industry for which the Committee is established. (2) An application to a Committee may be made— *(a)* in relation to public employees—by the Commissioner for Public Employment; *(b)* by an employer, or group of employers, employing not less than 20 employees in the industry for which the Committee is established or not less than 75 per cent of the employees in that industry (whichever is the less);

Section Amended	How Amended
	(c) by not less than 20 employees in the industry for which the Committee is established or not less than 75 per cent of the employees in that industry (whichever is the less); *(d)* by a registered association of employers the members of which employ not less than 20 employees in the industry for which the Committee is established or not less than 75 per cent of the employees in that industry (whichever is the less); or *(e)* by a registered association of employees the membership of which consists of, or includes, not less than 20 employees in the industry for which the Committee is established or not less than 75 per cent of the employees in that industry (whichever is the less).
Section 73 (3)	Strike out ", days". Strike out "chairman" and substitute "presiding officer of the Committee". Strike out "notice thereof" and substitute "notice of those times and places". Strike out "incidental thereto or affecting the merits thereof" and substitute "incidental to, or affecting the merits of, those matters".
Section 73 (4)	Strike out this subsection and substitute: (4) For the purpose of determining whether an application has been validly made in accordance with this section, a Committee may have regard to the records (if any) contained in the annual report of the Permanent Head or to a certificate from the Permanent Head as to the number of employees in a particular industry.
Section 74 (1)	Strike out "Unless otherwise provided by this Act" and substitute "Subject to this Act and any direction given by a Presidential Member of the Commission under subsection (2)". Strike out "chairman" wherever it occurs and substitute, in each case, "presiding officer".
Section 74 (2)	Strike out this subsection and substitute: (2) A Presidential Member of the Commission may direct— *(a)* that subsection (1) shall not apply to a Committee or in respect of specified meetings of a Committee; *(b)* that provisions specified in the direction shall apply to a Committee, or in respect of specified meetings of a Committee, instead of the provisions of subsection (1).
Section 74 (3)	Strike out "chairman" and substitute "presiding officer". Strike out "he deems" and substitute "he or she thinks".
Section 74 (4)	Strike out "the chairman" wherever it occurs and substitute, in each case, "the presiding officer". Strike out "he" and substitute "the presiding officer".
Section 75	Redesignate as section 75 (1).
Section 75 (1) *(a)*	Strike out ", or a Committee has not been re-constituted,". Strike out "re-constitution" and substitute "proper constitution".
Section 75 (1) *(b)*	Strike out "or the chairman thereof" and substitute "its presiding officer".

Section Amended	How Amended
	Strike out "some or any of its powers and duties" and substitute "its powers and duties or some of its powers and duties".
Section 75 (1)	Strike out "but if the Committee is not constituted the award shall specify a period of operation not exceeding six months".
	After subsection (1) insert the following:
	(2) Where an award is made in pursuance of this section pending the reconstitution of a Committee, the award shall operate for a period, not exceeding six months, specified in the award.
Part V, Division IV, heading	Strike out "*CONCILIATION*".
Section 76 *(a)*	Strike out "chairman" and substitute "presiding officer of the Committee".
	Strike out "by him".
Section 77	Strike out this section and substitute:
	77. An award of a Committee, unless sooner cancelled or rescinded, continues in operation until—
	(a) the expiration of the period of operation specified in the award (which must not exceed two years);
	or
	(b) a new award for the same industry made by the same or a subsequent Committee comes into force,
	whichever is the later.
Section 79 (3)	Strike out this subsection and substitute:
	(3) Wages accrue under a contract of hiring from day to day unless the hiring is by a period of less than one day, in which case wages accrue in respect of each such period.
Section 80 (1) *(a)*	Strike out "his" and substitute "the employee's".
Section 80 (1) *(b)*	Strike out this paragraph and substitute:
	(b) a full-time employee is ill while on annual leave and the illness is such as would, if the employee were not on leave, have rendered the employee unfit for employment for a period of not less than three consecutive days,.
Section 80 (1)	After "his" insert "or her".
Section 80 (4)	After "his" insert "or her".
Section 81 (1)	Strike out "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth" and substitute "the Commonwealth Act".
	Strike out "he" and substitute "the employee".
	After "his" insert "or her".
	Strike out "that commences after 1st January, 1972,".
Section 81 (1a)-(5)	Strike out these subsections and substitute:
	(2) Annual leave must be granted in accordance with the general standard.
	(3) Where an employee's employment is terminated for any reason, the employee is entitled to payment in lieu of leave in accordance with the general standard.
	(4) The Full Commission may, on the application of the Minister, determine a new general standard to replace one previously applying under this section.
	(5) In determining the general standard for the purposes of this section, the Full Commission may—
	(a) determine what constitutes continuous employment for the purposes of subsection (1);

Section Amended	How Amended
	(b) determine the circumstances giving rise to an entitlement to leave, or payment in lieu of leave, and the extent of that entitlement; *(c)* determine the payments to be made in respect of leave, or in lieu of leave, and the manner and time of those payments; and *(d)* determine any other incidental or ancillary matters. (6) The general standard determined by the Full Commission from time to time must be published by the Commission in the *Gazette*, and the production of the *Gazette* containing such a determination is proof of the standard.
Section 82	Redesignate as section 82 (1).
Section 82 (1) *(a)*	Strike out "in the industry in relation to which he is an employer".
Section 82 (1) *(b)*	Strike out this paragraph and substitute: *(b)* the employees to whom notices of termination of service are to be given in consequence of the introduction of automation or other similar technological changes and the consequences of failure to give such notices;.
Section 82 (1)	After subsection (1) insert the following: (2) Where a notice of termination of service is to be given in pursuance of a provision inserted in an award under this section, the period of the notice must be not less than three months, and that period will (whether or not notice is in fact given in accordance with the provision) count as service for the purposes of the Long Service Leave Act, 1967. (3) Where a notice of termination of service is not given as required by a provision inserted in an award under this section, the employee is entitled (in addition to any other rights that may be acquired under the award) to payment in lieu of notice in respect of any period by which the period of the notice actually given falls short of the period of notice required by the award.
Section 83 (1)	Strike out "his" and substitute "the".
Section 83 (2)	Strike out "during the same day, is employed partly at" and substitute "is employed on the same day partly in". Strike out "also partly at" and substitute "partly in".
Section 83 (3)	Strike out "his" first occurring and substitute "an". Strike out "his" second occurring and substitute "the".
Section 83 (4)	Strike out "his" first occurring and substitute "an". Strike out "his" second occurring and substitute "the".
Section 84	Strike out "All" and substitute "For the purposes of an award under which wages are to vary in accordance with experience, all". Strike out "improver" and substitute "junior". Strike out "he" and substitute "the apprentice or junior". After "his" insert "or her". Strike out ", whenever by an award his wages are to vary in accordance with his experience".
Section 86 (1)	Strike out "of his own motion" and substitute "in the exercise of a personal initiative".
Section 88 (6)	Strike out "him" and substitute "the employer".

Section Amended	How Amended
Section 89 (1)	Strike out "anything in" and substitute "any other provisions of ".
Section 89 (2) and (3)	Strike out these subsections and substitute: (2) The Governor may, by proclamation— *(a)* declare a sheltered workshop, charitable institution or institution for the blind to be a workshop or institution to which this section applies; *(b)* vary or revoke any such declaration.
Section 90 (1) *(b)*	Strike out "he should exercise his powers under this subsection," and substitute "the powers under this subsection be exercised,".
Section 90 (1)	Strike out "and by a notice published in a like manner, revoke or amend any such declaration". After subsection (1) insert the following: (1a) The Minister may, by notice published in the *Gazette*, vary or revoke a declaration under subsection (1).
Section 90 (2)	Strike out "anything in" and substitute "any other provisions of ".
Section 91	Strike out this section.
Section 92 (1)	Strike out "the Court".
Section 92 (2)	Strike out "unless that appeal is upheld by both such Judges that appeal shall not be allowed" and substitute ", the appeal shall not be allowed unless it is upheld by both Judges".
Section 92 (3)	Strike out "save on the ground of excess or want of jurisdiction before the Full Court as defined for the purposes of the Supreme Court Act, 1935, as amended" and substitute "except in proceedings before the Full Court of the Supreme Court founded on an alleged excess or want of jurisdiction".
Section 96 (1)	Strike out this subsection and substitute: (1) There shall be an appeal— *(a)* against the whole or part of an award or decision of the Commission constituted of a single member (including an order made by the Commission pursuant to section 110) or a Committee or the presiding officer of a Committee exercising the powers of the Commission; *(b)* in respect of the failure or refusal of the Commission constituted of a single member or a Committee or the presiding officer of a Committee exercising the powers of the Commission to include in an award any matter which, if included, would have been within its or his or her jurisdiction; *(c)* against the whole or part of an award of the Commission constituted of a single member or a Committee or the presiding officer of a Committee exercising the powers of the Commission, challenging or disputing the award, or part of the award, on the ground of illegality; and *(d)* against the whole or part of a decision or order made by the Commission pursuant to section 31.
Section 96 (3)	Strike out "an award or decision" and substitute "a decision or order".
Section 97 *(e)-(g)*	Strike out these paragraphs and substitute: *(e)* in the case of an award affecting employees of a prescribed employer—by the prescribed employer;

Section Amended	How Amended
	(f) in the case of an appeal challenging or disputing the whole or a part of the award solely on the ground of illegality—by any interested person or association; or *(g)* in the case of an appeal against a decision or order made by the Commission— (i) in the exercise of the jurisdiction conferred on it by section 25 (1) *(b)*; or (ii) on an application made to it under section 31, by any of the parties concerned.
Section 98 (1)	Strike out this subsection and substitute: (1) Subject to subsection (1a), an appeal must be instituted in the prescribed manner and— *(a)* in the case of an appeal founded solely on the alleged illegality of a decision—the notice of appeal may be lodged at any time; *(b)* in any other case— (i) the notice of appeal must be lodged within 21 days after publication of the award in the *Gazette*; (ii) if the decision is not followed by publication of an award in the *Gazette*—the notice of appeal must be lodged within 42 days of the decision subject to the appeal.
Section 98 (2)	Strike out this subsection and substitute: (2) The notice of appeal must specify— *(a)* the part of the award or decision subject to the appeal; *(b)* the grounds of the appeal; and *(c)* the relief sought.
Section 98 (3) *(d)*	Strike out this paragraph and substitute: *(d)* refer the subject matter of the appeal, or any matter arising in the course of the appeal, back to the Commission constituted of a single member or the Committee, with such directions or suggestions as the Full Commission thinks fit;.
Section 98 (3) *(f)*	After "shall come" insert ", or shall be deemed to have come,".
Section 98 (4) and (5)	Strike out these subsections and substitute: (4) Where an award is altered or added to on appeal— *(a)* the alteration or addition, the date on or from which the alteration is to come into operation and the period of operation shall be published in the *Gazette*; or *(b)* the award, consolidated so as to incorporate the alteration or addition, shall be published in the *Gazette*.
Section 99 (1a)	Strike out "an award or decision" and substitute "a decision or order".
Section 101 (1)	Strike out "chairman" and substitute "presiding officer". Strike out "upon its or his own motion" and substitute "in the exercise of an independent initiative,".
Section 101 (2)	Strike out this subsection and substitute:

Section Amended	How Amended
	(2) If the Commission is constituted of the President, the President may make a determination and give directions under subsection (1) either on receipt of a request of the kind contemplated by that subsection or in the exercise of a personal initiative.
Section 104	Strike out "him" and substitute "the Registrar".
Section 105 (3)	Strike out "appealed from".
Section 106	Strike out "as to any industrial matter, or in relation thereto" and substitute "in relation to any industrial matter".
Section 108 (2)	Strike out "association party thereto" and substitute "association that is a party to the agreement".
Section 108a (4)	Strike out "his" and substitute "the Registrar's".
Section 108a (7)	Strike out "In this section a reference to a relevant award in relation to an industrial agreement means" and substitute: "In this section— "relevant award", in relation to an industrial agreement, means".
Section 109	Strike out "concurrence with" and substitute "concurrence in".
Section 112 (1)	Strike out "agreement to the contrary therein contained" and substitute "provision of the agreement to the contrary".
Section 112 (2)	Strike out "his" and substitute "the party's".
Section 113	Strike out this section.
Section 114 (1) definition of "employee"	Strike out "contained" and substitute "of 'employee' ".
Section 114 (1) *(b)*	Strike out "him" and substitute "the person".
Section 114 (2)	After "his" insert "or her".
Section 116 (1) *(b)*	Strike out "he" and substitute "the Registrar".
Section 116 (2)	Strike out "he thinks it" and substitute "it is, in the Registrar's opinion,". Strike out "his" and substitute "the Registrar's". Strike out "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth" twice occurring and substitute, in each case, "the Commonwealth Act". Strike out "such registered association" and substitute "the other association".
Section 116 (4)	Strike out "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth" and substitute "the Commonwealth Act".
Section 116 (5) *(a)*	Strike out "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth" and substitute "the Commonwealth Act".
Section 117 (1)	Strike out "of such registration and of the validity thereof" and substitute "and the validity of registration".
Section 118	Strike out "and from time to time". Strike out "he" and substitute "the Registrar".
Section 119 (1)	Strike out "was" and substitute "must have been".
Section 119 (5)	Strike out "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth" and substitute "the Commonwealth Act".
Section 121 (3)	Strike out "he may, where in his opinion" and substitute "may, if of the opinion that".
Section 121 (3) *(b)*	Strike out "his" and substitute "the Registrar's".

Section Amended	How Amended
Section 121 (4)	After "application" second occurring insert "(referred to in this section as 'the applicant association')".
Section 121 (5) *(a)*	Strike out "his" and substitute "the Registrar's".
Section 121 (6)	Strike out "the *Conciliation and Arbitration Act* 1904 of the Commonwealth" and substitute "the Commonwealth Act". Strike out "registered under that Act" and substitute "so registered".
Section 122	Strike out this section and substitute: 122. (1) A registered association must, on application by a person who desires a copy of the rules of the association, accompanied by the fee (if any) fixed under subsection (2), furnish that person with a printed or typewritten copy of the rules, as in force for the time being. (2) A registered association may fix a fee (not exceeding the prescribed limit) for the purposes of subsection (1). (3) In this section— "prescribed limit" means the sum of $1 or such other amount as may be prescribed by regulation.
Section 124 (1)	Strike out "or exercise their calling" and substitute "or are employed".
Section 128 (3)	Strike out "him" and substitute "the Registrar".
Section 128 (4)	Strike out this subsection and substitute: (4) An association that fails to comply with a provision of this section is guilty of an offence and liable to a penalty, recoverable on the complaint of the Registrar, not exceeding $100 in respect of every week during which the failure continues.
Section 129 (1)	Strike out "within the meaning of the Companies Act, 1962, as amended,". Strike out "his" and substitute "the auditor's".
Section 129 (2)	Strike out "the provisions of this section shall" and substitute "this section must".
Section 130 (2)	Strike out "the provisions of this section shall" and substitute "this section must".
Section 131 *(a)*	Strike out this paragraph and substitute: *(a)* by leaving it at the registered office of the association;.
Section 132 (1) *(b)*	Strike out this paragraph and substitute: *(b)* unreasonable restrictions or conditions are imposed on admission to, or continuation of, membership of a registered association; *(ba)* the rules of a registered association are, or their administration is, tyrannical or oppressive;.
Section 132 (2)	After "he" insert "or she". Strike out ", as the case may be,".
Section 132 (3)	Strike out "Such cancellation" and substitute "The cancellation of a registration in pursuance of this section". Strike out "before the cancellation".
Section 132 (4)	Strike out "from the making thereof and every such direction shall have effect according to the tenor thereof".
Section 133 (1)	Strike out "The legal existence of any association or the registration thereof" and substitute "The legal existence or registration of an association". Strike out "or under an Act amended by this Act, or under the Industrial Code, 1920, as amended, or under the Industrial Arbitration Acts, 1912 and 1915".

Section Amended	How Amended
Section 133 (1) *(a)*	Strike out "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth" and substitute "the Commonwealth Act".
Section 133 (1) *(b)*	Strike out "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth" and substitute "the Commonwealth Act".
Section 133 (1) *(c)*	Strike out "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth" and substitute "the Commonwealth Act".
Section 133 (1) *(d)*	Strike out "the *Conciliation and Arbitration Act* 1904-1972 of the Commonwealth" and substitute "the Commonwealth Act".
Section 133 (1) *(e)*	Strike out "in the preceding paragraphs of this subsection" and substitute "in paragraphs *(a)* to *(d)*".
Section 136 (5)	Strike out ", which constitution shall in its ambit of membership substantially be that of all of the said associations and the said body shall be deemed to have been constituted forthwith upon the passing of the last resolution as aforesaid of the amalgamating associations". After subsection (5) insert the following: (6) The ambit of membership for which provision is made in the constitution of the amalgamated association must be such as would permit a person who would have been eligible for membership of any of the amalgamating associations to become a member of the association formed by the amalgamation.
Section 137	Strike out this section.
Sections 138 and 139	Strike out these sections and substitute: 138. A registered association is a body corporate.
Section 140 (1) *(d)*	Strike out "Associations Incorporation Act, 1956, as amended" and substitute "Associations Incorporation Act, 1985".
Section 144 (1)	Strike out "his".
Section 144 (3)	Strike out "he" and substitute "the employee or applicant".
Section 144 (4)	Strike out "he" and substitute "the person".
Section 145 (1)	Strike out "he sees" and substitute "the Minister thinks".
Section 145 (2)	Strike out "On or after the appointed day, it" and substitute "It".
Section 145 (3)	Strike out this subsection.
Section 145a (2)	Strike out "his" and substitute "the".
Section 146a (1)	
definition of "the Commonwealth Commission"	Strike out this definition.
definition of "industrial authority"	Strike out paragraph *(d)* and substitute: *(d)* the Commissioner for Public Employment;.
Section 146b (2)	Strike out "of its own motion" and substitute "on its own initiative".
Section 146c	Strike out this section.
Section 153 (2) *(b)* (ii)	Strike out "by a person".
Section 153 (3) *(a)*	Strike out "his behalf" and substitute "behalf of the employee".
Section 153 (6)	Strike out "the preceding provisions of this section" and substitute "subsections (1) to (5)".
Section 154 (3)	Strike out "before which he is so convicted" and substitute "by which the conviction is recorded". Strike out "him" and substitute "the defendant".

Section Amended	How Amended
Section 155	Strike out "in his capacity as such is" and substitute "is in an official capacity". Strike out ", otherwise such fine shall be paid to the Treasurer in aid of the general revenue of the State".
Section 156 (1)	Strike out "his employment or injure an employee in his" and substitute "or injure an employee in, his or her".
Section 156 (2)	After "his" insert "or her".
Section 156 (3)	After "his" insert "or her".
Section 157 (1)	Strike out "his employment or injure him in his" and substitute "or injure an employee in, his or her".
Section 157 (2)	Strike out this subsection and substitute: (2) Where it is established in proceedings for an offence against subsection (1) that an employer has dismissed an employee from, or injured an employee in, his or her employment, the onus is on the employer to establish— *(a)* that the employer did not act for a reason referred to in subsection (1); and *(b)* that the employer did not act in a manner that was harsh, unjust or unreasonable.
Section 157a (1) *(b)*	Strike out "his".
Section 158 (2)	Strike out "he" first occurring and substitute "the employer". Strike out "he" second occurring and substitute "the employer". After "he" third occurring insert "or she".
Section 159	Strike out this section and substitute: 159. (1) Subject to subsection (6), an employer who is bound by an award shall, in respect of employees to whom the award applies, keep, or cause to be kept— *(a)* a record of the names and addresses of employees employed by the employer and of the date of birth of any such employee who is under 21 years of age; *(b)* a record in which are entered as far as practicable— (i) each employee's times of beginning and ending work on each day (including a note of time allowed for meals and other breaks); and (ii) the wages paid to each employee and the date of each payment of wages; and *(c)* a record of annual leave, sick leave and long service leave granted to each employee. Penalty: $500. (2) The record referred to in subsection (1) *(b)* shall, wherever practicable, be verified by signature of the employee— *(a)* in the case of an employee in the building industry, in relation to time worked—on each day on which the employee works in the industry; *(b)* in any other case—on, or as soon as possible after, each pay day, and the record, as so verified, constitutes evidence of the correctness of the entries made in it.

Section Amended	How Amended
	(3) Subject to this section, an employer shall retain any record kept under this section for three years after the date of the last entry made in it. Penalty: $500. (4) An employer shall, at the request of an inspector— *(a)* produce for inspection a record that is to be kept under this section; and *(b)* permit the inspector to take copies of, or extracts from, the record. Penalty: $500. (5) When a business, or part of a business, is transferred or assigned, the transferor or assignor shall transmit to the transferee or assignee all records referred to in this section which relate to employees who become employees of the transferee or assignee in consequence of the transfer or assignment. Penalty: $200. (6) An award may, if the parties agree, direct that, in relation to some or all of the persons bound by the award, a time book need not be kept.
Section 160 *(a)*	Strike out "or false entries".
Section 160 *(c)*	Strike out "or entries".
Section 161 (1)	Strike out "his" first occurring and substitute "the employer's". Strike out "his" where it occurs for the second and third time and substitute, in each case, "the". Strike out "and shall make available to any employee a copy of this Act and a copy of the Workmen's Compensation Act, 1971, as from time to time amended, when so requested by any employee for the purpose of inspecting such Act".
Section 161 (2)	Strike out this subsection and substitute: (2) An employer who is bound by an award shall, at the request of an employee— *(a)* produce a copy of the award and afford the employee a reasonable opportunity to peruse it; and *(b)* produce a copy of this Act or the Workers Compensation Act, 1971, and afford the employee a reasonable opportunity to peruse it. Penalty: $200.
Section 163 (1) *(b)*	Strike out "requiring or undertaking that such person shall" and substitute "to".
Section 163 (1)	Strike out ", improver,"
Section 163 (2)	Strike out "the like" and substitute "similar". Strike out "such consent" and substitute "the consent of the Minister".
Section 164 (1)	Strike out "him" and substitute "the person".
Section 164 (2)	Strike out "him" and substitute "the person".
Section 164 (2) *(b)*	After "he" insert "or she".
Section 164 (2) *(c)*	After "he" insert "or she".
Section 166 (1) *(a)*	Strike out "his" and substitute "any".
Section 166 (1) *(c)*	Strike out "himself".
Section 166 (2)	Strike out "the person (or persons) constituting such Court may forthwith convict the person guilty of such offence and impose a penalty as prescribed in subsection (1) of this section" and substitute ", the Court may forthwith convict the offender and impose a penalty for the offence".

Section Amended	How Amended
Section 167	Strike out this section and substitute: 167. (1) Where the Court, the Commission or the Registrar makes an order for the payment of a monetary sum and no other provision is made in this Part or the rules for its recovery, the Registrar may issue a certificate, in the form prescribed by the rules, under the seal of the Court or the Commission, certifying the amount payable and the persons by whom and to whom it is to be paid. (2) The certificate may be filed in a court that has civil jurisdiction up to, or exceeding, the amount of the certificate and it will then be enforceable as a judgment of that court.
Section 168 (1)	Strike out ", whether vested in trustees or however otherwise held,".
Section 168 (2)	Strike out this subsection.
Section 169	Strike out ", if such penalty or sum is not fully paid within one month thereafter" and substitute "and the penalty or sum is not fully paid within one month after the date on which it was imposed or ordered". Strike out ", as the case may be,".
Section 170 *(c)*	After "his" insert "or her".
Section 170	Strike out "he" and substitute "the person".
Section 171 (2)	Strike out "by him". After "his" insert "or her".
Section 172	Strike out this section and substitute: 172. In proceedings for an offence against this Act— *(a)* an allegation in the complaint that a provision of an award with regard to the number of apprentices or juniors who may be employed has not been complied with; *(b)* an allegation in the complaint that a person named in the complaint was, on a date or over a period named in the complaint, employed by the defendant or employed in a specified capacity; or *(c)* an allegation in the complaint that specified premises are, or a specified place is, within a specified locality or area, shall, in the absence of proof to the contrary, be accepted as proved.
Section 174	Redesignate as section 174 (1).
Section 174 (1)	After subsection (1) insert the following: (2) Proceedings in respect of an offence against this Act must be commenced within 12 months after the date on which the offence is alleged to have been committed.
Section 175 (1) *(f)*	Strike out "so far as the same relate" and substitute "in relation".
Section 175 (1) *(g)*	After "execution" insert "of an industrial agreement".
Section 175 (3)	Strike out this subsection.
First schedule	Strike out the heading "THE FIRST SCHEDULE" and substitute the heading "SCHEDULE". Strike out the first schedule.
Second schedule	Strike out the heading "THE SECOND SCHEDULE".

Section Amended	How Amended
Section 1	
definition of "magistrate"	Strike out this definition and substitute: "industrial magistrate" or "magistrate" means a person holding office as an industrial magistrate under this Act:.
definition of "stipendiary magistrate"	Strike out "his".
definition of "working day"	Strike out "he" twice occurring and substitute, in each case, "the magistrate".
Section 2	Strike out this section.
Section 3 (1)	Strike out "he thinks" and substitute "appear".
Section 3 (2)	Strike out "his".
Section 3 (3)	Strike out "his" first occurring. Strike out "his" second occurring and substitute "the".
Section 3 (4)	Strike out "he" and substitute "the Minister".
Section 3 (5)	Strike out "he" and substitute "the person".
Section 4 (3)	Strike out this subsection and substitute: (3) No person except a stipendiary magistrate is eligible for appointment as the Supervising Industrial Magistrate.
Section 4 (5) *(a)*	Strike out "his".
Section 4 (5) *(b)*	Strike out "his" first occurring. Strike out "his office as" and substitute "the office of ".
Section 4 (6)	Strike out "his office as" and substitute "from the office of ".
Section 4 (7)	Strike out "the duties of his" and substitute "official duties".
Section 4 (8)	Strike out "his".
Section 5 (2)	Strike out "his own powers" and substitute "the President's own powers". Strike out "any of his administrative powers or functions" and substitute "any administrative power or function".
Section 6 (1)	Strike out "him" and substitute "the magistrate".
Section 6 (2)	Strike out "he" and substitute "the magistrate". Strike out "him" and substitute "the magistrate".
Section 7 (1)	Strike out this subsection and substitute: (1) a person ceases to hold office as a magistrate if that person— *(a)* resigns the office; *(b)* having attained the age of 55 years, retires from the office; *(c)* attains the age of 65 years; *(d)* in the case of an acting magistrate—completes a term of office; *(e)* is removed from office by the Governor.
Section 7 (2)	Strike out "his".
Section 7 (3)	Strike out "his".
Section 7 (4)	Strike out "proceedings previously part-heard by him" and substitute "part-heard proceedings". Strike out "he".
Section 8 (2)	Strike out "him" and substitute "the magistrate".
Section 8 (3) *(a)*	Strike out "he" and substitute "the magistrate".
Section 8 (6)	Strike out "unless he has" and substitute "without having".
Section 9 (1)	Strike out "of his own motion" and substitute "in the exercise of a personal initiative".

Section Amended	How Amended
Section 9 (6)	Strike out "him" and substitute "the magistrate".
Section 9 (8) *(a)*	Strike out "the duties of his office" and substitute "official duties".
Section 9 (8) *(d)*	Strike out "the duties of his office" and substitute "official duties".
Section 13 (5)	Strike out "his" and substitute "the".
Section 13 (7)	Strike out "he" twice occurring and substitute, in each case, "the magistrate".
Section 13 (8)	Strike out "he has taken" and substitute "taking". After "to which he" insert "or she". Strike out "he shall" and substitute "the person shall". After "his" insert "or her". Strike out "on which he" and substitute "on which the person".
Section 15 (2)	Strike out this subsection and substitute: (2) A stipendiary magistrate may choose to take long service leave at half pay and, in that event, is entitled to twice the number of days of leave.
Section 15 (5)	Strike out "he has taken long service leave to which he is entitled under this section, he" and substitute "taking accrued long service leave, that person". Strike out "his service" and substitute "service". Strike out "he had commenced his long service leave on the day on which he ceased to be a stipendiary magistrate" and substitute "the long service leave had commenced on the date of cessation of service". Strike out "he had completed a further year of service" and substitute "a further year of service had been completed".
Section 15 (6)	Strike out "he becomes" and substitute "becoming". Strike out "he" and substitute "that person". Strike out "his".
Section 18 (1)	Strike out "the recreation leave and long service leave to which he is entitled under this Schedule" and substitute "accrued recreation leave and long service leave". Strike out "his" first occurring and substitute "the stipendiary magistrate's". Strike out "his" second and third occurring.
Section 18 (2)	Strike out "he" twice occurring and substitute, in each case, "the magistrate". Strike out "his" twice occurring.
Section 18 (3)	Strike out "may, in his discretion," and substitute "has a discretion to".
Section 18 (4)	Strike out "he" and substitute "the Minister".
Section 18 (7)	Strike out "at the time of his death" and substitute "immediately before the magistrate's death".
Section 19	Strike out "the Industrial Conciliation and Arbitration Act, 1972" and substitute "this Act".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES ACT, 1987

No. 56 of 1987

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ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 56 of 1987

An Act relating to the protection of the sea and certain waters from pollution by oil and other noxious substances; to repeal the Prevention of Pollution of Waters by Oil Act, 1961; and for other purposes.

[*Assented to 7 May 1987*]

The Parliament of South Australia enacts as follows:

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the "Pollution of Waters by Oil and Noxious Substances Act, 1987".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation.

3. (1) In this Act, unless the contrary intention appears—

"Australian fishing vessel" means a fishing vessel that is registered, or entitled to be registered, in Australia or in relation to which an instrument under section 4 (2) of the *Fisheries Act* 1952 of the Commonwealth (as amended and in force for the time being) is in force:

"Australian ship" means—

(a) a ship registered in Australia;

or

(b) an unregistered ship having Australian nationality:

"Convention" means the 1973 Convention as modified and added to by the 1978 Protocol:

"fishing vessel" means a vessel used or intended to be used for catching fish or other living resources of the sea or seabed for trading or maufacturing purposes but excludes any vessel engaged in harvesting or transportation of algae or aquatic plants:

"harbor master" means an officer charged with the administration of Part III of the Harbors Act, 1936, at a harbor in this State and includes an assistant harbor master:

"inspector" means—

(a) a person who is appointed in writing by the Minister to be an inspector for the purposes of this Act;

(b) a harbor master;

or

(c) a member of the police force:

"master" in relation to a ship, means a person, other than a pilot, having command or charge of the ship.

"Navigation Act, 1912" means the *Navigation Act* 1912 of the Commonwealth (as amended and in force for the time being):

"pleasure vessel" means—

(a) a vessel used wholly for the purpose of recreational or sporting activities and not for hire or reward;

or

(b) any other vessel declared to be a vessel to which this Act applies by notice of the Minister published in the *Gazette*:

"State waters" means—

(a) the territorial sea adjacent to the State;

(b) the sea on the landward side of the territorial sea adjacent to the State that is not within the limits of the State;

and

(c) waters within the limits of the State (including all the inland waters of the State):

"the 1973 Convention" means the International Convention for the Prevention of Pollution from Ships, 1973, as corrected by the Proces-Verbal of Rectification dated 13 June, 1978 (a copy of the English text of which, apart from Annexes III, IV and V, as so corrected is set out in Schedule 1), as affected by any amendment, other than an amendment not accepted by Australia, made under Article 16 of the Convention:

"the 1978 Protocol" means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (a copy of the English text of which, apart from Annexes III, IV and V to it, is set out in Schedule 2) as affected by—

(a) the amendments to the Annex to the Protocol adopted on 7 September, 1984 (a copy of the English text of which amendments is set out in Schedule 3);

(b) the amendments to the Protocol adopted on 5 December 1985 (a copy of the English text of which relating to the Annex of the Protocol is set out in Schedule 4);

and

(c) any other amendment to the Protocol, other than an amendment not accepted by Australia, made under Article VI of the Protocol:

"Tonnage Measurement Convention" has the same meaning as in Part XA of the Navigation Act, 1912:

"trading Ship" means a ship that is used, or, being a ship in the course of construction, is intended to be used, for, or in connection with, any business or commercial activity and, without limiting the generality of the foregoing, includes a vessel that is used, or, being a vessel in the course of construction, is intended to be used, wholly or principally for—

(a) the carriage of passengers or cargo for hire or reward;

or

(b) the provision of services to ships or shipping, whether for reward or otherwise,

but does not include a Commonwealth ship within the meaning of the Navigation Act, 1912, or a fishing vessel.

(2) A reference in a section of this Act to a prescribed officer is a reference to the person for the time being occupying, or performing the duties of, an office in the Department or public authority of the State that deals with matters arising under that section, being an office that is prescribed for the purposes of that section.

(3) Except insofar as the contrary intention appears, an expression that is used in this Act and in the Convention, otherwise than in an annex to 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.

(4) Where, at any time, the gross tonnage applicable to a ship has been determined otherwise than in accordance with the Tonnage Measurement Convention, then, in the application of this Act to the ship at that time, a reference in this Act to the gross tonnage of a ship not expressed in tons shall be taken to be a reference to the gross tonnage of the ship expressed in tons.

(5) For the purposes of this Act—

(a) "inter-state voyage" and "overseas voyage" have the same respective meanings as in the Navigation Act, 1912;

(b) an intra-state voyage is a voyage other than an inter-state voyage or an overseas voyage;

and

(c) for the purposes of paragraphs *(a)* and *(b)*, a ship shall be deemed to be proceeding on a voyage from the time when it is got under way for the purpose of proceeding on the voyage until the time when it is got under way for the purpose of proceeding on another voyage.

(6) Where there is a discharge of oil or of an oily mixture or of a liquid substance or a mixture containing a liquid substance on to or into waters or any structure or thing and the whole or any part of the oil or oily mixture or liquid substance or mixture containing a liquid substance eventually enters any State waters, the discharge is for the purposes of this Act deemed

to be a discharge into those State waters of the oil or oily mixture or liquid substance or mixture containing a liquid substance.

Act to bind Crown.

4. (1) This Act binds the Crown in right of South Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

(2) Nothing in this Act renders the Commonwealth or a State or Territory of the Commonwealth liable to be prosecuted for an offence.

(3) Subsection (2) does not affect any liability of any servant or agent of the Commonwealth or of a State or Territory of the Commonwealth to be prosecuted for an offence.

Saving of other laws.

5. This Act shall be read and construed as being in addition to and not in derogation of any other law of the State.

Delegation.

6. (1) The Minister may, by instrument, delegate to a person any power or function of the Minister under this Act, other than this power of delegation.

(2) A harbor master may, by instrument, delegate to a person any power or function of the harbor master as an inspector under this Act, other than this power of delegation.

(3) A delegation under this section—

(a) may be made conditionally or subject to conditions;

(b) is revocable at will;

and

(c) does not derogate from the power of the Minister or harbor master to act in any matter personally.

(4) A delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

PART II

POLLUTION BY OIL

Interpretation.

7. Except insofar as the contrary intention appears, an expression that is used in this Part and in Annex I to the Convention (whether or not a particular meaning is assigned to it by that Annex) has, in this Part, the same meaning as in that Annex.

Prohibition of discharge of oil or oily mixtures into State waters.

8. (1) Subject to subsections (2) and (4), if any discharge of oil or of an oily mixture occurs from a ship into State waters, the master and the owner of the ship are each guilty of an offence punishable, upon conviction, by a fine not exceeding—

(a) if the offender is a natural person—$50 000;

or

(b) if the offender is a body corporate—$250 000.

(2) Subsection (1) does not apply to the discharge of oil or of an oily mixture from a ship—

(a) for the purpose of securing the safety of a ship or saving life at sea;

(b) if the oil or oily mixture, as the case may be, escaped from the ship in consequence of damage, other than intentional damage, to the ship or its equipment, and all reasonable precautions were taken after the occurrence of the damage or the discovery of the discharge for the purpose of preventing or minimizing the escape of oil or oily mixture, as the case may be;

or

(c) in the case of an oily mixture, if the discharge was for the purpose of combating specific pollution incidents in order to minimize the damage from pollution and was approved by a prescribed officer.

(3) For the purposes of subsection (2), damage to a ship or to its equipment shall be taken to be intentional damage if, and only if, the damage arose in circumstances in which the master or owner of the ship—

(a) acted with intent to cause the damage;

or

(b) acted recklessly and with knowledge that damage would probably result.

(4) Without limiting the generality of subsection (2) but subject to subsection (5), subsection (1) does not apply to—

(a) the discharge from an oil tanker of oil or an oily mixture, not being oil or an oily mixture of the kind referred to in paragraph *(c)*, if the following conditions are satisfied—

(i) the oil tanker is not within a special area and is more than 50 nautical miles from the nearest land;

(ii) the oil tanker is proceeding *en route*;

(iii) the instantaneous rate of discharge of oil content does not exceed 60 litres per nautical mile;

(iv) the total quantity of oil discharged into the sea does not exceed—

(A) in the case of an oil tanker that is an existing tanker—one part in 15 000 parts of the total quantity of the cargo of oil of which oil discharged formed a part;

or

(B) in the case of an oil tanker that is a new tanker—one part in 30 000 parts of the total quantity of the cargo of oil of which oil discharged formed a part;

(v) the oil tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by regulations made under the Marine Act, 1936, or made by virtue of section 267A of the Navigation Act, 1912;

(b) the discharge from a ship that has a gross tonnage of 400 or more and is not an oil tanker of oil or an oily mixture if the following conditions are satisfied—

(i) the ship is not within a special area and is more than 12 nautical miles from the nearest land;

(ii) the ship is proceeding *en route*;

(iii) the oil content of the effluent is less than 100 parts in 1 000 000 parts;

(iv) the ship has in operation an oil discharge monitoring and control system, oily-water separating equipment, oil filtering equipment or other installation as required by regulations made under the Marine Act, 1936, or made by virtue of section 267A of the Navigation Act, 1912;

(c) the discharge from an oil tanker of oil or an oily mixture, being oil or an oily mixture that is from the machinery space bilges (other than the cargo pump room bilges) of the oil tanker and does not include oil cargo residue, if the conditions specified in paragraph *(b)* are satisfied in relation to the discharge;

(d) the discharge from an oil tanker, or another ship that has a gross tonnage of 400 or more, of an unprocessed oily mixture, not being an oily mixture that originated from the cargo pump room bilges of the ship or includes oil cargo residue, if the following conditions are satisfied:

(i) the ship is not within a special area;

(ii) the oil content of the unprocessed oily mixture without dilution is not more than 15 parts in 1 000 000 parts;

(e) the discharge from a ship that has a gross tonnage of 400 or more and is not an oil tanker of a processed oily mixture not being an oily mixture that originated from the cargo pump room bilges of the ship or includes oil cargo residue, if the following conditions are satisfied—

(i) the ship is not within a special area;

(ii) the oil content of the effluent without dilution is not more than 15 parts in 1 000 000 parts;

(iii) the ship has in operation oil filtering equipment as required by regulations made under the Marine Act, 1936, or made by virtue of section 267A of the Navigation Act, 1912;

(f) the discharge from an oil tanker of a processed oily mixture, being a processed oily mixture that originates from the machinery space bilges (other than the cargo pump room bilges) of the oil tanker and does not include oil cargo residue, if the conditions specified in paragraph *(e)* are satisfied in relation to the discharge;

(g) the discharge within a special area from an oil tanker, or another ship that has a gross tonnage of 400 or more, of processed bilge water from machinery spaces, not being bilge water that originated from the cargo pump room bilges of the ship or

includes oil cargo residue, if the following conditions are satisfied—

(i) the ship is proceeding *en route*;

(ii) the oil content of the effluent without dilution is not more than 15 parts in 1 000 000 parts;

(iii) the ship has in operation oil filtering equipment as required by regulations made under the Marine Act, 1936, or made by virtue of section 267A of the Navigation Act, 1912;

(iv) the oil filtering equipment is equipped with a stopping device that automatically prevents any discharge of effluent when the oil content of the effluent without dilution is more than 15 parts in 1 000 000 parts;

(h) the discharge within a special area from a ship that has a gross tonnage of less than 400 and is not an oil tanker of oil or an oily mixture if—

(i) the oil content of the effluent without dilution is less than 15 parts in 1 000 000 parts;

or

(ii) the following conditions are satisfied—

(A) the ship is proceeding *en route*;

(B) the oil content of the effluent is less than 100 parts in 1 000 000 parts;

(C) the discharge is made as far as practicable from land and is not less than 12 nautical miles from the nearest land;

(i) the discharge, not being a discharge within a special area, from a ship that has a gross tonnage of less than 400 and is not an oil tanker of oil or an oily mixture;

or

(j) the discharge from a ship of clean or segregated ballast.

(5) A reference to an oily mixture in subsection (4) shall be read as not including a reference to an oily mixture that contains—

(a) chemicals or other substances in quantities or concentrations that are hazardous to the marine environment;

or

(b) chemicals or other substances that have been introduced for the purpose of attempting to prevent the application of subsection (1) to the discharge of an oily mixture from a ship.

(6) In proceedings for an offence against subsection (1) in relation to a ship, it is sufficient for the prosecution to allege and prove that a discharge of oil or of an oily mixture occurred from the ship into State waters, but it is a defence if it is proved that, by virtue of subsection (2) or (4), subsection (1) does not apply in relation to the discharge.

9. (1) Subject to subsection (2), if any oil residues that cannot be discharged from a ship into State waters without the commission of an Oil residues.

offence against section 8 (1) are not retained on board the ship while the ship is in State waters, the master and the owner of the ship are each guilty of an offence punishable, upon conviction, by a fine not exceeding—

(a) if the offender is a natural person—$50 000;

or

(b) if the offender is a body corporate—$250 000.

(2) Oil residues may be discharged from a ship to a reception facility provided in accordance with Regulation 12 of Annex I to the Convention.

Duty to report certain incidents involving oil or an oily mixture.

10. (1) Where a prescribed incident occurs in relation to a ship in State waters, the master of the ship shall, without delay, notify, in the prescribed manner, a prescribed officer of the incident.

Penalty: $5 000.

(2) In a prosecution of a person for an offence against subsection (1) in relation to a prescribed incident, it is a defence if the person proves that the person was unable to comply with the subsection in relation to the incident.

(3) Where a prescribed incident occurs in relation to a ship in State waters and—

(a) the master of the ship is unable to comply with subsection (1) in relation to the incident;

or

(b) the incident occurs in circumstances in which the ship is abandoned,

the owner, charterer, manager or operator of the ship or an agent of the owner, charterer, manager or operator of the ship shall, without delay, notify, in the prescribed manner, a prescribed officer of the incident and, if a prescribed officer is not so notified, each of those persons is guilty of an offence punishable, upon conviction, by a fine not exceeding—

(c) if the offender is a natural person—$5 000;

or

(d) if the offender is a body corporate—$25 000.

(4) In a prosecution of a person for an offence against subsection (3) in relation to a prescribed incident in relation to a ship, it is a defence if the person proves—

(a) that the person was not aware of the incident;

or

(b) in the case of a prescribed incident to which subsection (3) *(a)* applies—that the person neither knew nor suspected that the master of the ship was unable to comply with subsection (1) in relation to the incident.

(5) Subsection (4) shall not be taken to limit by implication any defence that would, but for that subsection, be available to a person charged with an offence against subsection (3).

(6) A master of a ship who, pursuant to subsection (1), has notified a prescribed officer of the occurrence of a prescribed incident shall, if so

requested by a prescribed officer, furnish, within the prescribed time, a report to a prescribed officer in relation to the incident in accordance with the prescribed form.

Penalty: $5 000.

(7) Where subsection (3) applies in relation to a prescribed incident in relation to a ship, a person who, pursuant to that subsection, has notified a prescribed officer of the occurrence of the prescribed incident shall, if so requested by a prescribed officer, furnish, within the prescribed time, a report to a prescribed officer in relation to the incident in accordance with the prescribed form.

Penalty: $5 000.

(8) A person shall not, in a notice given to a prescribed officer pursuant to subsection (1) or (3) or in a report furnished to a prescribed officer pursuant to subsection (6) or (7), make a statement that is false or misleading in a material particular.

Penalty: $5 000.

(9) A notice given to a prescribed officer pursuant to subsection (1) or (3), and a report furnished to a prescribed officer pursuant to subsection (6) or (7), shall not, without the consent of the person charged, be admitted in evidence in a prosecution for an offence against section 8 (1).

(10) In this section, "prescribed incident", in relation to a ship, means—

(a) a discharge from the ship of oil or an oily mixture, not being a discharge to which section 8 (4) applies;

or

(b) an incident involving the probability of a discharge from the ship of oil or an oily mixture, not being a discharge to which section 8 (4) would apply.

Oil record book.

11. (1) This section applies to—

(a) a trading ship proceeding on an intra-state voyage;

(b) an Australian fishing vessel proceeding on a voyage other than an overseas voyage;

or

(c) a pleasure vessel,

that—

(d) is an oil tanker;

or

(e) has a gross tonnage of 400 or more and is not an oil tanker.

(2) Every ship to which this section applies shall carry such oil record books as are required by the regulations to be carried on the ship.

(3) An oil record book shall be in accordance with the appropriate prescribed form with provision made for a signature, in accordance with subsection (6), in relation to each entry made in it and for a signature, in accordance with subsection (7), in relation to each page of it.

(4) Where a ship to which this section applies does not carry an oil record book as required by this section, the master and the owner of the

ship are each guilty of an offence punishable, upon conviction, by a fine not exceeding—

(a) if the offender is a natural person—$5 000;

or

(b) if the offender is a body corporate—$25 000.

(5) Whenever a prescribed operation or prescribed occurence is carried out or occurs in, or in relation to, a ship to which this section applies, the master of the ship shall make, without delay, appropriate entries in, or cause appropriate entries to be made, without delay, in the ship's oil record book, being entries in accordance with subsection (6).

Penalty: $5 000.

(6) An entry in a ship's oil record book—

(a) must be made in the English language;

and

(b) must be signed by the master of the ship and, in the case of an entry made in relation to a prescribed operation, by the officer or other person in charge of the operation.

(7) Where a page of a ship's oil record book is completed, the master of the ship shall, without delay, sign the page.

Penalty: $5 000.

False entries in oil record book.

12. A person shall not make, in an oil record book of a ship to which section 11 applies, an entry that is false or misleading in a material particular.

Penalty: $10 000.

Oil record book to be retained.

13. (1) The owner of a ship to which section 11 applies shall cause each of the ship's oil record books to be retained—

(a) in the ship;

or

(b) at the registered office in the State of the owner,

until the expiration of the period of three years after the day on which the last entry was made in the book and to be readily available for inspection at all reasonable times.

(2) Where an oil record book of a ship is not retained in accordance with subsection (1), the owner of the ship is guilty of an offence punishable, upon conviction, by a fine not exceeding—

(a) if the owner is a natural person—$5 000.;

or

(b) if the owner is a body corporate—$25 000.

(3) The owner of a ship to which section 11 applies who resides in the State, or has an office or agent in the State, may from time to time furnish to a prescribed officer notice, in writing, of an address, being the address of—

(a) the place in the State at which the person so resides;

(b) the office of the person in the State, or if the person has more than one office in the State, the principal office in the State;

or

(c) the office or place of residence in the State of an agent or, if the agent has more than one office in the State, the principal office in the State of the agent,

and the place or office of which an address is furnished for the time being under this subsection is the registered office in the State of the owner of the ship for the purposes of subsection (1).

(4) Where the owner of a ship to which section 11 applies does not reside in the State and does not have an office or agent in the State, the owner may deposit an oil record book of the ship with a prescribed officer and, while the book is so deposited, the book is, for the purposes of subsection (1), deemed to be retained at the registered office in the State of the owner.

PART III

POLLUTION BY NOXIOUS SUBSTANCES

Interpretation.

14. (1) In this Part—

"Annex II" means Annex II to the Convention:

"liquid substance" does not include oil:

"mixture" includes ballast water, tank washings and other residues:

"oil" has the same meaning as it has in Part II.

(2) Except insofar as the contrary intention appears, an expression that is used in this Part and in Annex II (whether or not a particular meaning is assigned to it by that Annex) has, in this Part, the same meaning as in that Annex.

Application of Act to mixture of oil and liquid substance.

15. Where a mixture contains oil and a liquid substance or oil and liquid substances, Part II and this Part apply in relation to the mixture.

Categories of noxious liquid substances.

16. (1) The regulations may declare that a liquid substance specified in the regulations is, for the purposes of this Act, deemed to be designated in Appendix II to Annex II and to be categorized in a category specified in the regulations, being Category A, B, C or D.

(2) Where, in accordance with subsection (1), the regulations declare that a liquid substance is deemed to be designated in Appendix II to Annex II and to be categorized in Category A, the regulations shall declare that, for the purposes of this Act—

(a) a residual concentration specified in the regulations shall be deemed to be the residual concentration prescribed for that substance in column III of that Appendix;

and

(b) a residual concentration specified in the regulations shall be deemed to be the residual concentration prescribed for that substance in column IV of that Appendix.

(3) The regulations may declare that a liquid substance designated in Appendix II to Annex II is, for the purposes of this Act, deemed not to be so designated.

(4) The regulations may declare that a liquid substance designated in Appendix II to Annex II and categorized in a particular category is, for the purposes of this Act, deemed not to be so categorized but to be categorized in a category specified in the regulations.

Appendix III substances.

17. (1) The regulations may declare that a liquid substance specified in the regulations is, for the purposes of this Act, deemed to be listed in Appendix III to Annex II.

(2) The regulations may declare that a liquid substance listed in Appendix III to Annex II is, for the purposes of this Act, deemed not to be so listed.

Prohibition of discharge of substances into State waters.

18. (1) Subject to subsection (2) and subsections (4) to (12) (inclusive), if any discharge of a liquid substance, or of a mixture containing a liquid substance, being a substance or mixture carried as cargo or part cargo in bulk, occurs from a ship into State waters, the master and the owner of the ship are each guilty of an offence punishable, upon conviction, by a fine not exceeding—

(a) if the offender is a natural person—$50 000;

or

(b) if the offender is a body corporate—$250 000.

(2) Subsection (1) does not apply to the discharge of a liquid substance or a mixture from a ship—

(a) for the purpose of securing the safety of a ship or saving life at sea;

(b) if the substance or the mixture, as the case may be, escaped from the ship in consequence of damage, other than intentional damage, to the ship or its equipment, and all reasonable precautions were taken after the occurrence of the damage or the discovery of the discharge for the purpose of preventing or minimizing the escape of the substance or the mixture, as the case may be;

or

(c) if the discharge was for the purpose of combating specific pollution incidents in order to minimize the damage from pollution and was approved by a prescribed officer.

(3) For the purposes of subsection (2), damage to a ship or to its equipment shall be taken to be intentional damage if, and only if, the damage arose in circumstances in which the master or owner of the ship—

(a) acted with intent to cause the damage;

or

(b) acted recklessly and with knowledge that damage would probably result.

(4) Without limiting the generality of subsection (2), (5) or (12) but subject to subsection (13), where—

(a) the tank of a ship that held a substance in Category A or a mixture containing a substance in Category A has been cleaned in accordance with regulations made under section 24;

(b) the resulting residues in the tank have been discharged to a reception facility until the concentration of that substance in the effluent to that facility is, in the opinion of an inspector, at or below the residual concentration prescribed for that substance in column III of Appendix II to Annex II and until the tank is empty;

and

(c) the residue then remaining in the tank has been subsequently diluted by the addition of a volume of water,

subsection (1) does not apply to the discharge from the ship of the water containing that residue if the following conditions are satisfied—

(d) the discharge is made when the ship is not within a special area;

(e) the discharge is made when the ship is proceeding *en route* at a speed of—

(i) where the ship is self-propelled, at least 7 knots;

or

(ii) where the ship is not self-propelled, at least 4 knots;

(f) the discharge is made below the water line of the ship, taking into account the location of the seawater intakes;

and

(g) the discharge is made when the ship is at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(5) Without limiting the generality of subsection (2), (4) or (12) but subject to subsection (13), where—

(a) the tank of a ship that held a substance in Category A or a mixture containing a substance in Category A has been washed in accordance with regulations made under section 24;

(b) the resulting residues in the tank have been discharged to a reception facility provided in accordance with Regulation 7 of Annex II by a State bordering a special area until the concentration of that substance in the effluent to that facility is, in the opinion of an inspector, at or below the residual concentration prescribed for that substance in column IV of Appendix II to Annex II and until the tank is empty;

and

(c) the residue then remaining in the tank has been subsequently diluted by the addition of a volume of water of not less than 5 per cent of the total volume of the tank,

subsection (1) does not apply to the discharge into State waters of the residue diluted by that water if the conditions specified in paragraphs *(e)*, *(f)* and *(g)* of subsection (4) are satisfied in relation to the discharge from the ship.

(6) Without limiting the generality of subsection (2), (7) or (12) but subject to subsection (13), subsection (1) does not apply to the discharge from a ship of—

(a) a substance in Category B;

or

(b) a mixture containing a substance in Category B, not being a mixture containing a substance in Category A,

if the following conditions are satisfied—

(c) the discharge is made when the ship is not within a special area;

(d) the discharge is made when the ship is proceeding *en route* at a speed of—

(i) where the ship is self-propelled, at least 7 knots;

or

(ii) where the ship is not self-propelled, at least 4 knots;

(e) the procedures and arrangements for the discharge have been approved by a prescribed officer, being procedures and arrangements that ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in Category B in the wake astern of the ship does not exceed 1 part in 1 000 000 parts;

(f) the maximum quantity of cargo discharged from each tank of the ship (including the associated piping system of the tank) does not exceed the maximum quantity specified in the procedures referred to in paragraph *(e)*, not being a quantity exceeding 1 cubic metre or 1 part in 3 000 parts of the tank capacity in cubic metres, whichever is the greater;

(g) the discharge is made below the water line of the ship, taking into account the location of the seawater intakes;

and

(h) the discharge is made when the ship is at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(7) Without limiting the generality of subsection (2), (6) or (12) but subject to subsection (13), where—

(a) the tank of a ship that held—

(i) a substance in Category B;

or

(ii) a mixture containing a substance in Category B, not being a mixture containing a substance in Category A,

has been pre-washed in accordance with a procedure approved by a prescribed officer;

and

(b) the resulting tank washings have been discharged to a reception facility,

subsection (1) does not apply to the discharge from the ship of the residue in that tank if the conditions specified in paragraphs *(d)*, *(e)*, *(g)* and *(h)* of subsection (6) are satisfied in relation to the discharge from the ship.

(8) Without limiting the generality of subsection (2), (9) or (12) but subject to subsection (13), subsection (1) does not apply to the discharge from a ship of—

(a) a substance in Category C;

or

(b) a mixture containing a substance in Category C, not being a mixture containing a substance in Category A or B,

if the following conditions are satisfied—

(c) the discharge is made when the ship is not within a special area;

(d) the discharge is made when the ship is proceeding *en route* at a speed of—

(i) where the ship is self-propelled, at least 7 knots;

or

(ii) where the ship is not self-propelled, at least 4 knots;

(e) the procedures and arrangements for the discharge have been approved by a prescribed officer, being procedures and arrangements that ensure that the concentration and rate of discharge of the effluent are such that the concentration of the substance in Category C in the wake astern of the ship does not exceed 10 parts in 1 000 000 parts;

(f) the maximum quantity of cargo discharged from each tank of the ship (including the associated piping system of the tank) does not exceed the maximum quantity specified in the procedures referred to in paragraph *(e)*, not being a quantity exceeding 3 cubic metres or 1 part in 1 000 parts of the tank capacity in cubic metres, whichever is the greater;

(g) the discharge is made below the water line of the ship, taking into account the location of the seawater intakes;

and

(h) the discharge is made when the ship is at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(9) Without limiting the generality of subsection (2), (8) or (12) but subject to subsection (13), subsection (1) does not apply to the discharge from a ship of—

(a) a substance in Category C;

or

(b) a mixture containing a substance in Category C, not being a mixture containing a substance in Category A or B,

if the following conditions are satisfied—

(c) the discharge is made when the ship is proceeding *en route* at a speed of—

(i) where the ship is self-propelled, at least 7 knots;

(ii) where the ship is not self-propelled, at least 4 knots;

(d) the procedures and arrangements for the discharge have been approved by a prescribed officer, being procedures and arrangements that ensure that the concentration and rate of discharge of the effluent are such that the concentration of the substance in Category C in the wake astern of the Ship does not exceed 1 part in 1 000 000 parts;

(e) the maximum quantity of cargo discharged from each tank of the ship (including the associated piping system of the tank) does not exceed the maximum quantity specified in the procedures referred to in paragraph *(d)*, not being a quantity exceeding 1 cubic metre or 1 part in 3 000 parts of the tank capacity in cubic metres, whichever is the greater;

(f) the discharge is made below the water line of the ship, taking into account the location of the seawater intakes;

and

(g) the discharge is made when the ship is at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(10) Without limiting the generality of subsection (2) or (12) but subject to subsection (13), subsection (1) does not apply to the discharge from a ship of—

(a) a substance in Category D;

or

(b) a mixture containing a substance in Category D, not being a mixture containing a substance in Category A, B or C,

if the following conditions are satisfied—

(c) the discharge is made when the ship is proceeding *en route* at a speed of—

(i) where the ship is self-propelled, at least 7 knots;

or

(ii) where the ship is not self-propelled, at least 4 knots;

(d) the substance or mixture has been mixed with water so that the concentration of the substance in Category D in the effluent does not exceed 1 part in 11 parts;

and

(e) the discharge occurs when the ship is not less than 12 nautical miles from the nearest land.

(11) Without limiting the generality of subsection (2), subsection (1) does not apply to the discharge from a ship of bilge water, or of a mixture resulting from tank cleaning or de-ballasting operations, that contains a liquid substance, or liquid substances, listed in Appendix III to Annex II but does not contain any other liquid substance.

(12) Without limiting the generality of subsection (2) or subsections (4) to (10) (inclusive), subsection (1) does not apply to the discharge from a ship of clean ballast or segregated ballast.

(13) Subsections (4) to (10) (inclusive) do not apply in relation to a mixture that contains a liquid substance that is neither a noxious liquid substance nor a liquid substance listed in Appendix III to Annex II.

(14) In proceedings for an offence against subsection (1) in relation to a ship, it is sufficient for the prosecution to allege and prove that a discharge of a substance, or a mixture containing a substance, carried as cargo of the ship occurred from the ship into State waters, but it is a defence if it is proved that, by virtue of subsection (2), (4), (5), (6), (7), (8), (9), (10), (11) or (12), subsection (1) does not apply in relation to the discharge.

(15) In this section, "inspector" includes a surveyor appointed or authorized by the Government of a country that is a Party to the Convention for the purpose of implementing Regulation 8 of Annex II.

Certain liquid substances to be treated as oil.

19. (1) Notwithstanding any other provision of this Act, a prescribed substance in Category C or D, being a substance that has been identified by the Organization as an oil-like substance under criteria developed by the Organization, may be carried on an oil tanker within the meaning of Part II if the following conditions are satisfied:

(a) the oil tanker complies with the provisions of Annex I of the Convention as applicable to product carriers within the meaning of that Annex;

(b) the oil tanker carries an International Oil Pollution Prevention Certificate and its Supplement B, being a certificate that has an endorsement—

(i) that indicates that the ship is permitted to carry oil-like substances in conformity with Regulation 14 of Annex II of the Convention;

and

(ii) that specifies the oil-like substance or substances that the tanker is permitted to carry;

(c) the prescribed substance is the substance, or a substance, referred to in paragraph *(b)* (ii);

(d) in the case of a substance in Category C—the tanker complies with the ship type 3 damage stability requirements of—

(i) in the case of a tanker constructed on or after 1 July 1986—the International Bulk Chemical Code;

or

(ii) in the case of a tanker constructed before 1 July 1986—the Bulk Chemical Code applicable under Regulation 13 of Annex II of the Convention;

and

(e) the oil content meter in the oil discharge monitoring and control system of the tanker has been approved by an inspector for use in monitoring the oil-like substances to be carried.

(2) Where, by virtue of subsection (1), a substance is carried on an oil tanker within the meaning of Part II—

(a) section 8 applies in relation to the discharge of the substance as if the substance were oil within the meaning of Part II;

and

(b) section 18 does not apply in relation to the discharge of the substance.

Duty to report certain incidents involving certain substances.

20. (1) Where a prescribed incident occurs in relation to a ship in State waters, the master of the ship shall, without delay, notify, in the prescribed manner, a prescribed officer of the incident.

Penalty: $5 000.

(2) In a prosecution of a person for an offence against subsection (1) in relation to a prescribed incident, it is a defence if the person proves that the person was unable to comply with the subsection in relation to the incident.

(3) Where a prescribed incident occurs in relation to a ship in State waters and—

(a) the master of the ship is unable to comply with subsection (1) in relation to the incident;

or

(b) the incident occurs in circumstances in which the ship is abandoned,

the owner, charterer, manager or operator of the ship or an agent of the owner, charterer, manager or operator of the ship shall, without delay, notify, in the prescribed manner, a prescribed officer of the incident and, if a prescribed officer is not so notified, each of those persons is guilty of an offence punishable, upon conviction, by a fine not exceeding—

(c) if the offender is a natural person—$5 000;

or

(d) if the offender is a body corporate—$25 000.

(4) In a prosecution of a person for an offence against subsection (3) in relation to a prescribed incident in relation to a ship, it is a defence if the person proves—

(a) that the person was not aware of the incident;

or

(b) in the case of a prescribed incident to which subsection (3) *(a)* applies—that the person neither knew nor suspected that the master of the ship was unable to comply with subsection (1) in relation to the incident.

(5) Subsection (4) shall not be taken to limit by implication any defence that would, but for that subsection, be available to a person charged with an offence against subsection (3).

(6) A master of a ship who, pursuant to subsection (1), has notified a prescribed officer of the occurrence of a prescribed incident shall, if so requested by a prescribed officer, furnish, within the prescribed time, a report to a prescribed officer in relation to the incident in accordance with the prescribed form.

Penalty: $5 000.

(7) Where subsection (3) applies in relation to a prescribed incident in relation to a ship, a person who, pursuant to that subsection, has notified a prescribed officer of the occurrence of the prescribed incident shall, if so requested by a prescribed officer, furnish, within the prescribed time, a report to a prescribed officer in relation to the incident in accordance with the prescribed form.

Penalty: $5 000.

(8) A person shall not, in a notice given to a prescribed officer pursuant to subsection (1) or (3) or in a report furnished to a prescribed officer pursuant to subsection (6) or (7), make a statement that is false or misleading in a material particular.

Penalty: $5 000.

(9) A notice given to a prescribed officer pursuant to subsection (1) or (3), and a report furnished to a prescribed officer pursuant to subsection (6) or (7), shall not, without the consent of the person charged, be admitted in evidence in a prosecution for an offence against section 18 (1).

(10) In this section—

"liquid substance" does not include a substance listed in Appendix III to Annex II:

"prescribed incident", in relation to a ship, means—

(a) a discharge from the ship of a liquid substance, or a mixture containing a liquid substance, carried as cargo or part cargo in bulk, not being a discharge to which section 18 (4), (5), (6), (7), (8), (9), (10), (11) or (12) applies;

or

(b) an incident involving the probability of a discharge from the ship of a liquid substance, or a mixture containing a liquid substance, carried as cargo or part cargo in bulk, not being a discharge to which section 18 (4), (5), (6), (7), (8), (9), (10), (11) or (12) would apply.

Cargo record book.

21. (1) This section applies to a trading ship proceeding on an intra-state voyage that carries liquid substance in bulk.

(2) A cargo record book shall be carried in every ship to which this section applies.

(3) A cargo record book shall be in accordance with the prescribed form with provision made for a signature, in accordance with subsection (7), in relation to each entry made in it and for a signature, in accordance with subsection (8), on each page of it.

(4) Where a ship to which this section applies does not carry a cargo record book as required by this section, the master and the owner of the ship are each guilty of an offence punishable, upon conviction, by a fine not exceeding—

(a) if the offender is a natural person—$5 000;

or

(b) if the offender is a body corporate—$25 000.

(5) Whenever a prescribed operation or occurrence is carried out or occurs in, or in relation to, a ship to which this section applies, the master of the ship shall make, without delay, appropriate entries in, or cause appropriate entries to be made, without delay, in the ship's cargo record book, being entries in accordance with subsection (7).

Penalty: $5 000.

(6) Where an inspector has inspected a ship to which this section applies, the inspector must make, without delay, appropriate entries in the ship's cargo record book in accordance with subsection (7).

(7) An entry in a ship's cargo record book—

(a) must be made in the English language;

and

(b) in the case of an entry made in relation to a prescribed operation, must be signed by the officer or other person in charge of the operation.

(8) Where a page of a ship's cargo record book is completed, the master of the ship shall, without delay, sign the page.

Penalty: $5 000.

False entries in cargo record book.

22. A person shall not make, in a cargo record book of a ship to which section 21 applies, an entry that is false or misleading in a material particular.

Penalty: $10 000.

Cargo record book to be retained.

23. (1) A cargo record book of a ship to which section 21 applies shall be retained in the ship until the expiration of a period of two years after the day on which the last entry was made in the book and shall be readily available for inspection at all reasonable times.

(2) Where a cargo record book is not retained in a ship in accordance with subsection (1), the master and the owner of the ship are each guilty of an offence punishable, upon conviction, by a fine not exceeding—

(a) if the offender is a natural person—$5 000;

or

(b) if the offender is a body corporate—$25 000.

(3) The owner of a ship to which section 21 applies shall cause each of the ship's cargo record books to be retained—

(a) in the ship;

or

(b) at the registered office in the State of the owner,

until the expiration of the period of one year next following the expiration of the period during which the book is required to be retained in the ship by virtue of subsection (1) and to be readily available for inspection at all reasonable times.

(4) Where a cargo record book of a ship is not retained in accordance with subsection (3), the owner of the ship is guilty of an offence punishable, upon conviction, by a fine not exceeding—

(a) if the owner is a natural person—$5 000;

or

(b) if the owner is a body corporate—$10 000.

(5) The owner of a ship to which section 21 applies who resides in the State, or has an office or agent in the State, may from time to time furnish to a prescribed officer notice, in writing, of an address, being the address of—

(a) the place in the State at which the person so resides;

(b) the office of the person in the State or, if the person has more than one office in the State, the principal office in the State;

or

(c) the office or place of residence in the State of an agent or, if the agent has more than one office in the State, the principal office in the State of the agent,

and the place or office of which an address is furnished for the time being under this subsection is the registered office in the State of the owner of the ship for the purposes of subsection (3).

(6) Where the owner of a ship to which section 21 applies does not reside in the State and does not have an office or agent in the State, the owner may deposit a cargo record book of the ship with a prescribed officer and, while the book is so deposited, the book is, for the purposes of subsection (3), deemed to be retained at the registered office in the State of the owner.

Cleaning of tanks of ships.

24. The regulations may make provision for and in relation to giving effect to Regulation 8 of Annex II.

PART IV

MISCELLANEOUS

DIVISION I—PRELIMINARY

Interpretation.

25. In this Part—

"agent" in relation to a ship, means any person in the State who, for or on behalf of the owner of the ship—

(a) performs any function or duty under or for the purposes of the Harbors Act, 1936, or the Marine Act, 1936;

or

(b) makes any arrangements for the berthing of the ship or the loading or unloading of cargo:

"apparatus" includes a pipeline, a structure on land, a receptacle used for the storage of oil and equipment used in the exploration for, or recovery of, oil:

"liquid substance" has the same meaning as it has in Part III:

"oil" has the same meaning as it has in Part II:

"oily mixture" has the same meaning as it has in Part II:

"premises" means—

(a) a building, structure or place (including an apparatus);

or

(b) a part of premises:

"relevant person" means—

(a) in relation to a ship—the owner or the master of the ship;

(b) in relation to a vehicle—the owner or the person in charge of the vehicle;

(c) in relation to an apparatus—the owner or the person in charge of the apparatus.

DIVISION II—DISCHARGES OCCURRING OTHER THAN FROM SHIPS

Discharge of oil into waters from vehicles, etc.

26. (1) Subject to subsection (3), if any discharge of oil or of any oily mixture occurs from a vehicle into State waters, any relevant person and any other person responsible for the discharge from the vehicle are each guilty of an offence.

Penalty: $50 000.

(2) Subject to subsection (3), if any discharge of oil or of an oily mixture occurs from an apparatus into State waters, any relevant person and any other person responsible for the discharge from the apparatus are each guilty of an offence.

Penalty: $50 000.

(3) It is a defence to a charge for an offence against subsection (1) or (2) for the defendant to prove that the alleged offence—

(a) resulted from the need to save life;

(b) resulted from an act of terrorism or a natural phenomenon of an exceptional and irresistible nature;

(c) resulted from carrying out, or attempting to carry out, a direction of the Minister;

or

(d) was wholly caused by the negligent or unlawful act or omission of another person, not being an employee or agent of the defendant.

Notification of discharge.

27. (1) Where a discharge of oil or of an oily mixture occurs from a vehicle or apparatus—

(a) into State waters;

or

(b) onto any land in circumstances where it is reasonably likely that the oil or mixture will flow into State waters,

a relevant person shall, without delay, notify the Minister of the occurrence.

Penalty: $5 000.

(2) A person who, pursuant to subsection (1), has notified the Minister of the occurrence of a discharge shall, if so requested by the Minister, furnish, within the prescribed time, a report to the Minister in relation to the occurrence in accordance with the prescribed form.

Penalty: $5 000.

(3) A person shall not, in a notice given to the Minister pursuant to subsection (1) or in a report furnished to the Minister pursuant to subsection (2), make a statement that is false or misleading in a material particular.

Penalty: $5 000.

(4) A notice given to the Minister pursuant to subsection (1), and a report furnished to the Minister pursuant to subsection (2), shall not, without the consent of the person charged, be admitted in evidence in a prosecution for an offence against section 26.

DIVISION III—REMOVAL AND PREVENTION OF POLLUTION AND RECOVERY OF COSTS

Removal and prevention of pollution.

28. (1) Where there has been or the Minister is of the opinion that there is likely to be—

(a) a discharge of oil or of an oily mixture from a ship, vehicle or apparatus into State waters;

or

(b) a discharge of a liquid substance, or a mixture containing a liquid substance, being a liquid substance or mixture carried as cargo or part cargo in bulk, from a ship into State waters,

(being called, for the purposes of this section, "substances") the Minister may take or cause to be taken such action as the Minister thinks fit—

(c) to prevent or limit the discharge;

(d) to dispense or contain the substances that have been discharged;

(e) to remove substances that have been discharged from waters or land affected by the discharged;

(f) to minimize the damage from pollution resulting from or likely to result from the discharge.

(2) The Minister may, in taking action under subsection (1), by notice in writing addressed to a relevant person, direct—

(a) that any operation or activity involving the use of a ship, vehicle or apparatus cease;

(b) that a ship, vehicle or apparatus be removed in a specified manner to a specified place;

(c) that a ship, vehicle or apparatus may not be removed except with the approval of the Minister and in accordance with his or her directions;

(d) that all or a specified part of a substance contained in a ship, vehicle or apparatus be removed in a specified manner to a specified place;

(e) that a substance contained in a ship, vehicle or apparatus may not be removed except with the approval of the Minister and in accordance with his or her directions;

(f) that no substance, no further substance or no substance in excess of a specified amount be received into a ship, vehicle or apparatus;

(g) that any restrictions specified in the notice be complied with in the reception, removal or transfer of a substance into, from or within a ship, vehicle or apparatus;

(h) that any equipment or machinery ancillary to a ship, vehicle or apparatus be used or put into operating condition;

(i) that specified repair or construction work be carried out on a ship, vehicle or apparatus;

(j) that such other specified action be taken in relation to a ship, vehicle or apparatus, or anything contained in a ship, vehicle or apparatus, as the Minister thinks fit.

(3) A person to whom a notice under subsection (2) is addressed shall not, without reasonable excuse, fail to comply with the notice.

Penalty: $50 000.

(4) The Minister may, by further notice in writing, vary or revoke a notice given under subsection (2).

(5) If the requirements of a notice given under this section are not complied with, the Minister may cause the requirements to be carried out and where reasonably necessary for that purpose any person authorized by the Minister may enter and take possession of any ship, vehicle or premises (using such force as is necessary for the purpose) and do, or cause to be done, such things as full and proper compliance with the notice may require.

(6) No civil liability attaches to the Minister for any act or failure to act under this section.

Recovery of costs.

29. (1) Subject to this section, the Minister may recover the costs and expenses reasonably incurred in exercising a power under this Division from a relevant person.

(2) The costs and expenses referred to in subsection (1)—

(a) may be awarded in the course of proceedings for an offence in respect of a discharge (whether or not the relevant person is convicted of an offence);

or

(b) may or be recovered as a debt due to the Crown (whether or not proceedings have been taken for an offence in respect of a discharge).

(3) A person is not liable to pay for the costs and expenses of the Minister under this Division where the act or omission giving rise to the exercise of power by the Minister—

(a) resulted from the need to save life;

(b) resulted from an act of terrorism or a natural phenomenon of an exceptional and irresistible nature;

(c) was wholly caused by the negligence or the failure of a government or other authority in carrying out its functions;

or

(d) was wholly caused by the negligent or unlawful act or omission of another person, not being an employee or agent of the person.

(4) The exemption from liability provided under subsection (3) *(d)* is not, in respect of a discharge from a ship, available—

(a) to an agent, in respect of an act or omission of the owner, master or a member of the crew of the ship;

(b) to the owner of the ship, in respect of an act or omission of the agent, master or a member of the crew of the ship;

or

(c) to the master of the ship, in respect of an act or omission of a member of the crew of the ship.

(5) A person is not liable to pay for the costs and expenses of the Minister under this Division in respect of preventing a discharge of oil or of an oily mixture that the Minister believed was likely to occur if the person proves—

(a) that there was no reasonable likelihood of the discharge occurring;

(b) that the directions given by the Minister were unreasonable;

or

(c) that the manner in which the Minister acted was unreasonable.

(6) Nothing in this Division affects or qualifies any other right of the Minister or the State to recover damages in respect of the consequences of a discharge into State waters.

Detention of ship, vehicle or apparatus.

30. (1) An amount recoverable by the Minister pursuant to this Division in respect of a ship, vehicle or apparatus is a charge against that ship, vehicle or apparatus.

(2) The Minister may cause a ship, vehicle or apparatus referred to in subsection (1) to be detained until the amount recoverable by the Minister is paid or until security for payment of that amount is provided to the satisfaction of the Minister.

(3) Where a ship, vehicle or apparatus that is being detained pursuant to this section is removed from any place without the consent of the Minister, the master of the ship or the person in charge of the vehicle or apparatus is guilty of an offence.

Penalty: $10 000.

Recovery of costs by one person from another.

31. Where—

(a) a person—

(i) is by notice given under this Division required to take any action;

or

(ii) is liable for the payment of costs and expenses incurred by the Minister in exercising a power under this Division;

and

(b) the circumstances giving rise to the giving of the notice or the incurring of the costs and expenses were caused by another person or arose on account of the neglect of another person,

the person may recover the costs and expenses reasonably incurred in complying with the notice or in satisfying the liability to the Minister from that other person, as a debt in a court of competent jurisdiction.

Service of notices.

32. (1) Where a notice under this Division is addressed to the owner or master of a ship, that notice may be served—

(a) personally;

(b) in the case of service on the owner—by serving the notice on the agent or master of the ship;

(c) in the case of service on the master—by serving the notice on the agent of the ship or a person on board the ship who is apparently a member of the crew of the ship;

and

(d) where it is not reasonably practicable to serve the owner or master in any other manner—

(i) by transmitting the contents of the notice to the master of the ship;

or

(ii) by affixing the notice to the ship in a reasonably conspicuous place.

(2) Where a notice under this Division in respect of a vehicle is addressed to a relevant person, that notice may be served—

(a) personally;

(b) by serving the notice on any owner of the vehicle;

or

(c) where it is not reasonably practicable to serve the person in any other manner, by affixing the notice to the vehicle in a reasonably conspicuous place.

(3) Where a notice under this Division in respect of an apparatus is addressed to a relevant person, that notice may be served—

(a) personally;

(b) by serving the notice on any owner of the apparatus;

or

(c) where it is not reasonably practicable to serve the person in any other manner, by affixing the notice to the apparatus in a reasonably conspicuous place.

(4) A notice that is to be served on a company may be served by handing it to a director, secretary or other officer of the company.

(5) A statement in writing, purporting to be made and signed by a person employed as a communications officer whose duties include the transmission of messages to ships at sea, that person—

(a) cause the contents of a notice to be transmitted to a ship at sea;

and

(b) received a clear acknowledgement of the receipt of those contents from a person purporting to be on board the ship,

shall be deemed, in the absence of proof to the contrary, to be proof of service for the purposes of subsection (1) *(d)* (i).

DIVISION IV—OTHER MATTERS

Powers of inspectors.

33. (1) For the purposes of—

(a) ascertaining whether a provision of this Act that is applicable in relation to a ship has been complied with in respect of a ship;

(b) ascertaining whether there has been a discharge into State waters in contravention of this Act;

or

(c) carrying out any other investigation required for the purposes of this Act,

an inspector may—

(d) go on board a ship with such assistants and equipment as the inspector considers necessary;

(e) require the master of a ship to take such steps as the inspector directs to facilitate the boarding;

(f) inspect and test any machinery or equipment of a ship;

(g) require the master of a ship to take such steps as the inspector directs to facilitate the inspection or testing of any machinery or equipment of a ship;

(h) open, or require the master of a ship to cause to be opened, any hold, bunker, tank, compartment or receptacle in or on board the ship and inspect the contents of any hold, bunker, tank, compartment or receptacle in or on board the ship;

(i) require the master of a ship to produce a record book required by this Act to be carried in the ship or any other books, documents or records relating to the ship or its cargo that are carried in the ship;

(j) make copies of, or take extracts from, any such books, documents or records;

(k) require the master of a ship to certify that a true copy of an entry in a record book required by this Act to be carried in the ship made by the inspector is a true copy of such an entry;

(l) examine, and take samples of, any substances being in, on, or in the vicinity of a ship in respect of which an investigation of a discharge or suspected discharge in breach of a provision of this Act is being made;

(m) require the master of a ship, or any person representing the master, to certify the taking of the samples;

and

(n) require a person to answer question.

(2) For any purpose related to—

(a) the administration or enforcement of this Act;

or

(b) ascertaining whether there has been a discharge into State waters in contravention of this Act,

an inspector may—

(c) enter any vehicle or premises with such assistants and equipment as the inspector considers necessary;

(d) inspect any vehicle or premises and test any machinery or equipment;

(e) require a person apparently in charge of a vehicle or premises to take such steps as the inspector directs to facilitate the inspec-

tion or testing of any apparatus, machinery or equipment in or on the vehicle or at the premises;

(f) examine, and take samples of, any substances being in, on or in the vicinity of, a vehicle or premises in respect of which an investigation of a discharge or suspected discharge in breach of a provision of this Act is being made;

and

(g) require a person to answer question.

(3) A person shall not—

(a) without reasonable excuse, hinder or obstruct or refuse or fail to comply with a requirement made of the person by an inspector in the exercise of power under subsection (1) or (2);

(b) in answer to a question that the person is required to answer under subsection (1) or (2) make a statement that is false or misleading in a material particular.

Penalty: $2 000.

(4) An inspector shall not, in exercising powers under subsection (1), unnecessarily delay a ship from beginning a voyage.

Oil reception facilities.

34. (1) The Minister may—

(a) provide facilities for enabling ships to dispose of oil residues;

(b) join with any other person or authority to provide facilities for enabling ships to dispose of oil residues;

or

(c) arrange for another person or an authority to provide facilities for enabling ships to dispose of oil residues.

(2) The regulations may fix charges and impose conditions or limitations in respect of the use of facilities provided under subsection (1).

(3) Regulations may be made requiring—

(a) the owners or occupiers of oil terminals, oil depots, oil installations or other similar establishments used for the loading or unloading of oil in bulk;

and

(b) the owners or occupiers of establishments at which ships are repaired or any other work is performed in relation to ships which may involve the disposal of oil residues from ships,

to provide facilities of a standard approved by the Minister, to maintain those facilities in good order and condition and to keep prescribed records.

(4) A person who fails to comply with a regulation made under subsection (3) is guilty of an offence.

Penalty: $5 000.

(5) In this section—

"oil residues" means those parts of a mixture containing oil that remain after undergoing a separation process.

Transfer of oil at night.

35. (1) No oil shall be transferred between sunset and sunrise to or from a ship in State waters without the written permission of—

(a) a harbor master;

or

(b) the Minister.

(2) Where oil is frequently and regularly transferred at a particular place, the permission required under subsection (1) may be given generally to transfers that are carried out at that place between specified times.

(3) Permission under this section to transfer oil may be given subject to such conditions or limitations as the harbor master or Minister thinks fit.

(4) If oil is transferred to or from a ship in contravention of this section or a condition or limitation imposed under this section, the owner and master of the ship and, if the oil is transferred from or to a place on land, the person in charge of that place, are each guilty of an offence.

Penalty: $2 000.

Prosecutions.

36. (1) A prosecution for an offence against this Act may be brought at any time.

(2) Offences constituted by this Act are—

(a) in the case of offences under this Division or the regulations—summary offences;

(b) in any other case—minor indictable offences.

(3) Where, in proceedings for an offence against this Act in respect of any conduct engaged in by a body corporate, it is necessary to establish the state of mind of the body corporate, it is sufficient to show that a director, servant or agent of the body corporate, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

(4) Any conduct engaged in on behalf of a body corporate—

(a) by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority;

or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent,

shall be deemed, for the purposes of a provision of this Act that creates an offence, to have been engaged in by the body corporate.

(5) A reference in subsection (3) to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.

Service of summonses.

37. (1) Any summons to be served on the owner or master of a ship in respect of an offence against this Act may be served by serving it on the

agent of the ship in any manner in which it might have been served on the owner or master.

(2) A summons served on an agent of a ship pursuant to subsection (1) shall be deemed to have been served on the owner or master of the ship.

(3) Any summons in respect of an offence against this Act may be issued and served on a Sunday as on any other day.

Evidence.

38. In any proceedings for an offence against a provision of this Act—

(a) any record kept in pursuance of this Act is admissible as *prima facie* evidence of the facts stated in the record;

(b) a copy of an entry in such a record, being a copy certified by the person by whom the record is required to be kept to be a true copy of the entry, is admissible as *prima facie* evidence of the facts stated in the entry;

(c) a document purporting to be a record kept in pursuance of this Act or purporting to be such a certified copy as referred to in paragraph (b), shall, unless the contrary is proved, be deemed to be such a record or certified copy, as the case may be;

and

(d) an allegation in a complaint that notification of a discharge was not given in accordance with this Act shall, unless the contrary is proved, be accepted as proved.

Evidence of analyst.

39. (1) The Minister may, by instrument, appoint appropriately qualified persons to be analysts for the purposes of this Act.

(2) Subject to subsection (4), a certificate of an analyst appointed under subsection (1) stating that the analyst has analysed or examined a substance and stating the result of the analysis or examination is admissible in evidence in any proceeding for an offence against a provision of this Act as *prima facie* evidence of the facts stated in the certificate and of the correctness of the result of the analysis or examination.

(3) For the purposes of this section, a document purporting to be a certificate referred to in subsection (2) shall, unless the contrary is proved, be deemed to be such a certificate.

(4) A certificate referred to in subsection (2) shall not be received in evidence in pursuance of that subsection unless the person charged has been given a copy of the certificate together with reasonable notice of the intention of the prosecution to produce the certificate as evidence in the proceedings.

(5) Where, in pursuance of subsection (2), a certificate of an analyst appointed under subsection (1) is admitted in evidence, the person charged may require the analyst to be called as a witness for the prosecution and the analyst may be cross-examined as if the analyst had given evidence of the matters stated in the certificate.

Immunity of inspectors.

40. No liability shall attach to an inspector, or any person acting with the authority or on the direction of an inspector, in good faith and in the exercise or purported exercise of a power or in the discharge or purported discharge of a duty under this Act.

Regulations.

41. (1) The Governor may make regulations prescribing matters—

(a) required or permitted by this Act to be prescribed;

or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,

and, in particular—

(c) for and in relation to giving effect to the Convention, other than provisions of the Convention to which effect is given by a provision of this Act;

(d) empowering the Minister to make orders for and in relation to—

(i) giving effect to the Convention, other than provisions of the Convention to which effect is given by a provision of this Act;

and

(ii) the fixing of fees to be paid in respect of any matters under the orders;

(e) fixing fees to be paid in respect of any matters under this Act;

(f) prescribing penalties, not exceeding—

(i) in the case of an individual—a fine of $2 000 or imprisonment for one year;

or

(ii) in the case of a body corporate—a fine of $5 000,

for a contravention of, or failure to comply with, a provision of the regulations or of any of the orders made in pursuance of the regulations;

(g) so as to apply—

(i) generally or in a particular class of case or in particular classes of case;

and

(ii) throughout the State and all State waters or in a prescribed part or prescribed parts of the State or State waters;

and

(h) exempting, either absolutely or subject to conditions, a prescribed ship or person, or ships or persons included in a prescribed class of ships or persons, from all or any of the provisions of this Act or of the regulations.

(2) If the Convention is amended, other than by an amendment objected to by Australia, the Governor may by regulations—

(a) amend Schedule 1, Schedule 2, Schedule 3 or Schedule 4;

or

(b) add a further schedule or schedules,

in order that the schedules may contain relevant parts of the Convention as in force from time to time.

Orders.

42. (1) Orders made pursuant to the regulations are subject to disallowance by Parliament.

(2) Sections 10, 11 and 12 of the Subordinate Legislation Act, 1978, apply in relation to orders made pursuant to the regulations as if references in those sections to regulations were references to such orders.

(3) Unless the contrary intentions appears, expressions used in orders made pursuant to the regulations have the same meanings as in this Act.

(4) Orders made pursuant to the regulations shall be read subject to this Act and the regulations and so as not to exceed the power conferred by this Act and the regulations to the intent that, where such orders would, but for this subsection, have been construed as being in excess of the power conferred by this Act and the regulations, they shall be deemed to be valid orders to the extent to which they are not in excess of that power.

(5) Where an order made pursuant to the regulations is inconsistent with a provision of this Act or the regulations, the latter shall prevail and the former shall, to the extent of the inconsistency, be of no force or effect.

Prescribing matters by reference to other instruments.

43. (1) The regulations or orders under this Act may make provision for or in relation to a matter by applying, adopting or incorporating either wholly or in part or with modifications, any regulations, rules, codes, orders, instructions or other subordinate legislation made, determined or issued under any other Act or under any Act of the Parliament of the Commonwealth.

(2) The regulations made under this Act may make provision for or in relation to a matter by applying, adopting or incorporating any matter contained in orders made in pursuance of the regulations.

Repeal and saving.

44. (1) The Prevention of Pollution of Waters by Oil Act, 1961, is repealed.

(2) Notwithstanding the repeal of the Act referred to in subsection (1) effected by that subsection, the provisions of that Act continue to apply, after the commencement of this section, in relation to any discharge of oil, or of a mixture containing oil, within the meaning of that Act that occurred or commenced before the commencement of this section as if that Act had not been repealed.

SCHEDULE 1

[s. 3]

THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS 1973

THE PARTIES TO THE CONVENTION,

BEING CONSCIOUS of the need to preserve the human environment in general and the marine environment in particular,

RECOGNIZING that deliberate, negligent or accidental release of oil and other harmful substances from ships constitutes a serious source of pollution,

RECOGNIZING ALSO the importance of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as being the first multilateral instrument to be concluded with the prime objective of protecting the environment, and appreciating the significant contribution which that Convention has made in preserving the seas and coastal environment from pollution,

DESIRING to achieve the complete elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimization of accidental discharge of such substances,

CONSIDERING that this object may best be achieved by establishing rules not limited to oil pollution having a universal purport,

HAVE AGREED as follows:

ARTICLE 1

General Obligations under the Convention

(1) The Parties to the Convention undertake to give effect to the provisions of the present Convention and those Annexes thereto by which they are bound, in order to prevent the pollution of the marine environment by the discharge of harmful substances or effluents containing such substances in contravention of the present Convention.

(2) Unless expressly provided otherwise, a reference to the present Convention constitutes at the same time a reference to its Protocols and to the Annexes.

ARTICLE 2

Definitions

For the purposes of the present Convention, unless expressly provided otherwise:

(1) "Regulations" means the Regulations contained in the Annexes to the present Convention.

(2) "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by the present Convention.

(3) (*a*) "Discharge", in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;

(*b*) "Discharge" does not include—

(i) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13 November 1972; or

(ii) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or

(iii) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control.

(4) "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.

(5) "Administration" means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of any State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.

(6) "Incident" means an event involving the actual or probable discharge into the sea of a harmful substance, or effluents containing such a substance.

(7) "Organization" means the Inter-Governmental Maritime Consultative Organization.

ARTICLE 3

Application

(1) The present Convention shall apply to—

(*a*) ships entitled to fly the flag of a Party to the Convention; and

(*b*) ships not entitled to fly the flag of a Party but which operate under the authority of a Party.

(2) Nothing in the present Article shall be construed as derogating from or extending the sovereign rights of the Parties under international law over the sea-bed and subsoil thereof adjacent to their coasts for the purposes of exploration and exploitation of their natural resources.

(3) The present Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with the present Convention.

ARTICLE 4

Violation

(1) Any violation of the requirements of the present Convention shall be prohibited and sanctions shall be established therefor under the law of the Administration of the ship concerned wherever the violation occurs. If the Administration is informed of such a violation and is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, in accordance with its law.

(2) Any violation of the requirements of the present Convention within the jurisdiction of any Party to the Convention shall be prohibited and sanctions shall be established therefor under the law of that Party. Whenever such a violation occurs, that Party shall either—

(*a*) cause proceedings to be taken in accordance with its law; or

(*b*) furnish to the Admininstration of the ship such information and evidence as may be in its possession that a violation has occurred.

(3) Where information or evidence with respect to any violation of the present Convention by a ship is furnished to the Administration of that ship, the Administration shall promptly inform the Party which has furnished the information or evidence, and the Organization, of the action taken.

(4) The penalties specified under the law of a Party pursuant to the present Article shall be adequate in severity to discourage violations of the present Convention and shall be equally severe irrespective of where the violations occur.

ARTICLE 5

Certificates and Special Rules on Inspection of Ships

(1) Subject to the provisions of paragraph (2) of the present Article a certificate issued under the authority of a Party to the Convention in accordance with the provisions of the Regulations shall be accepted by the other Parties and regarded for all purposes covered by the present Convention as having the same validity as a certificate issued by them.

(2) A ship required to hold a certificate in accordance with the provisions of the Regulations is subject, while in the ports or off-shore terminals under the jurisdiction of a Party, to inspection by officers duly authorized by that Party. Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate. In that case, or if the ship does not carry a valid certificate, the Party carrying out the inspection shall take such steps as will ensure that the ship shall not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment. That Party may, however, grant such a ship permission to leave the port or off-shore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

(3) If a Party denies a foreign ship entry to the ports or off-shore terminals under its jurisdiction or takes any action against such a ship for the reason that the ship does not comply with the provisions of the present Convention, the Party shall immediately inform the consul or diplomatic representative of the Party whose flag the ship is entitled to fly, or if this is not possible, the Administration of the ship concerned. Before denying entry or taking such action the Party may request consultation with the Administration of the ship concerned. Information shall also be given to the Administration when a ship does not carry a valid certificate in accordance with the provisions of the Regulations.

(4) With respect to the ships of non-Parties to the Convention, Parties shall apply the requirements of the present Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

ARTICLE 6

Detection of Violations and Enforcement of the Convention

(1) Parties to the Convention shall co-operate in the detection of violations and the enforcement of the provisions of the present Convention, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

(2) A ship to which the present Convention applies may, in any port or off-shore terminal of a Party, be subject to inspection by officers appointed or authorized by that Party for the purpose of verifying whether the ship has discharged any harmful substances in violation of the provisions of the Regulations. If an inspection indicates a violation of the Convention, a report shall be forwarded to the Administration for any appropriate action.

(3) Any Party shall furnish to the Administration evidence, if any, that the ship has discharged harmful substances or effluents containing such substances in violation of the provisions of the Regulations. If it is practicable to do so, the competent authority of the former Party shall notify the Master of the ship of the alleged violation.

(4) Upon receiving such evidence, the Administration so informed shall investigate the matter, and may request the other Party to furnish further or better evidence of the alleged contravention. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken in accordance with its law as soon as possible. The Administration shall promptly inform the Party which has reported the alleged violation, as well as the Organization, of the action taken.

(5) A Party may also inspect a ship to which the present Convention applies when it enters the ports or off-shore terminals under its jurisdiction, if a request for an investigation is received from any Party together with sufficent evidence that the ship has discharged harmful substances or effluents containing such substances in any place. The report of such investigation shall be sent to the Party requesting it and to the Administration so that the appropriate action may be taken under the present Convention.

ARTICLE 7

Undue Delay to Ships

(1) All possible efforts shall be made to avoid a ship being unduly detained or delayed under Article 4, 5 or 6 of the present Convention.

(2) When a ship is unduly detained or delayed under Article 4, 5 or 6 of the present Convention, it shall be entitled to compensation for any loss or damage suffered.

ARTICLE 8

Reports on Incidents Involving Harmful Substances

(1) A report of an incident shall be made without delay to the fullest extent possible in accordance with the provisions of Protocol I to the present Convention.

(2) Each Party to the Convention shall—

(*a*) make all arrangements necessary for an appropriate officer or agency to receive and process all reports on incidents; and

(*b*) notify the Organization with complete details of such arrangements for circulation to other Parties and Member States of the Organization.

(3) Whenever a Party receives a report under the provisions of the present Article, that Party shall relay the report without delay to—

(*a*) the Administration of the ship involved; and

(*b*) any other State which may be affected.

(4) Each Party to the Convention undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services, to report to its authorities any incident referred to in Protocol I to the present Convention. That Party shall, if it considers it appropriate, report accordingly to the Organization and to any other party concerned.

ARTICLE 9

Other Treaties and Interpretation

(1) Upon its entry into force, the present Convention supersedes the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, as between Parties to that Convention.

(2) Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C(XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

(3) The term "jurisdiction" in the present Convention shall be construed in the light of international law in force at the time of application or interpretation of the present Convention.

ARTICLE 10

Settlement of Disputes

Any dispute between two or more Parties to the Convention concerning the interpretation or application of the present Convention shall, if settlement by negotiation between the Parties involved has not been possible, and if these Parties do not otherwise agree, be submitted upon request of any of them to arbitration as set out in Protocol II to the present Convention.

ARTICLE 11

Communication of Information

(1) The Parties to the Convention undertake to communicate to the Organization—

(*a*) the text of laws, orders, decrees and regulations and other instruments which have been promulgated on the various matters within the scope of the present Convention;

(*b*) a list of non-governmental agencies which are authorized to act on their behalf in matters relating to the design, construction and equipment of ships carrying harmful substances in accordance with the provisions of the Regulations;

(*c*) a sufficient number of specimens of their certificates issued under the provisions of the Regulations;

(*d*) a list of reception facilities including their location, capacity and available facilities and other characteristics;

(*e*) official reports or summaries of official reports in so far as they show the results of the application of the present Convention; and

(*f*) an annual statistical report, in a form standardized by the Organization, of penalties actually imposed for infringement of the present Convention.

(2) The Organization shall notify Parties of the receipt of any communications under the present Article and circulate to all Parties any information communicated to it under sub-paragraphs (1) (*b*) to (*f*) of the present Article.

ARTICLE 12

Casualties to Ships

(1) Each Administration undertakes to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the Regulations if such casualty has produced a major deleterious effect upon the marine environment.

(2) Each Party to the Convention undertakes to supply the Organization with information concerning the findings of such investigation, when it judges that such information may assist in determining what changes in the present Convention might be desirable.

ARTICLE 13

Signature, Ratification, Acceptance, Approval and Accession

(1) The present Convention shall remain open for signature at the Headquarters of the Organization from 15 January 1974 until 31 December 1974 and shall thereafter remain open for accession. States may become Parties to the present Convention by—

(*a*) signature without reservation as to ratification, acceptance or approval; or

(*b*) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(*c*) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

(3) The Secretary-General of the Organization shall inform all States which have signed the present Convention or acceded to it of any signature or of the deposit of any new instrument of ratification, acceptance, approval or accession and the date of its deposit.

ARTICLE 14

Optional Annexes

(1) A State may at the time of signing, ratifying, accepting, approving or acceding to the present Convention declare that it does not accept any one or all of Annexes III, IV and V (hereinafter referred to as "Optional Annexes") to the present Convention. Subject to the above, Parties to the Convention shall be bound by any Annex in its entirety.

(2) A State which has declared that it is not bound by an Optional Annex may at any time accept such Annex by depositing with the Organization an instrument of the kind referred to in Article 13 (2) of the present Convention.

(3) A State which makes a declaration under paragraph (1) of the present Article in respect of an Optional Annex and which has not subsequently accepted that Annex in accordance with paragraph (2) of the present Article shall not be under any obligation nor entitled to claim any privileges under the present Convention in respect of matters related to such Annex and all references to Parties in the present Convention shall not include that State in so far as matters related to such Annex are concerned.

(4) The Organization shall inform the States which have signed or acceded to the present Convention of any declaration under the present Article as well as the receipt of any instrument deposited in accordance with the provisions of paragraph (2) of the present Article.

ARTICLE 15

Entry into Force

(1) The present Convention shall enter into force twelve months after the date on which not less than fifteen States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become parties to it in accordance with Article 13 of the present Convention.

(2) An Optional Annex shall enter into force twelve months after the date on which the conditions stipulated in paragraph (1) of the present Article have been satisfied in relation to that Annex.

(3) The Organization shall inform the States which have signed the present Convention or acceded to it of the date on which it enters into force and of the date on which an Optional Annex enters into force in accordance with paragraph (2) of the present Article.

(4) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the present Convention or any Optional Annex after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of the Convention or such Annex or three months after the date of deposit of the instrument whichever is the later date.

(5) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the Convention or an Optional Annex entered into force, the Convention or the Optional Annex shall become effective three months after the date of deposit of the instrument.

(6) After the date on which all the conditions required under Article 16 to bring an amendment to the present Convention or an Optional Annex into force have been fulfilled, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention or Annex as amended.

ARTICLE 16

Amendments

(1) The present Convention may be amended by any of the procedures specified in the following paragraphs.

(2) Amendments after consideration by the Organization:

(*a*) Any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by its Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration;

(*b*) Any amendment proposed and circulated as above shall be submitted to an appropriate body by the Organization for consideration;

(*c*) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the appropriate body;

(*d*) Amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting;

(*e*) If adopted in accordance with sub-paragraph (*d*) of this paragraph, amendments shall be communicated by the Secretary-General of the Organization to all the Parties to the Convention for acceptance;

(*f*) An amendment shall be deemed to have been accepted in the following circumstances:

(i) An amendment to an Article of the Convention shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet;

(ii) An amendment to an Annex to the Convention shall be deemed to have been accepted in accordance with the procedure specified in sub-paragraph (*f*) (iii) of this paragraph unless the appropriate body, at the time of its adoption, determines that the amendment shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet. Nevertheless, at any time before the entry into force of an amendment to an Annex to the Convention, a Party may notify the Secretary-General of the Organization that its express approval will be necessary before the amendment enters into force for it. The latter shall bring such notification and the date of its receipt to the notice of Parties;

(iii) An amendment to an Appendix to an Annex to the Convention shall be deemed to have been accepted at the end of a period to be determined by the appropriate body at the time of its adoption, which period shall be not less than ten months, unless within that period an objection is communicated to the Organization by not less than one-third of the Parties or by Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet whichever condition is fulfilled;

(iv) An amendment to Protocol I to the Convention shall be subject to the same procedures as for the amendments to the Annexes to the Convention, as provided for in sub-paragraphs (*f*) (ii) or (*f*) (iii) of this paragraph;

(v) An amendment to Protocol II to the Convention shall be subject to the same procedures as for the amendments to an Article of the Convention, as provided for in sub-paragraph (*f*) (i) of this paragraph;

(*g*) The amendment shall enter into force under the following conditions:

(i) In the case of an amendment to an Article of the Convention, to Protocol II, or to Protocol I or to an Annex to the Convention not under the procedure specified in sub-paragraph (*f*) (iii) of this paragraph, the amendment accepted in conformity with the foregoing provisions shall enter into force six months after the date of its acceptance with respect to the Parties which have declared that they have accepted it;

(ii) In the case of an amendment to Protocol I, to an Appendix to an Annex or to an Annex to the Convention under the procedure specified in sub-paragraph (*f*) (iii) of this paragraph, the amendment deemed to have been accepted in accordance with the foregoing conditions shall enter into force six months after its acceptance for all the Parties with the exception of those which, before that date, have made a declaration that they do not accept it, or a declaration under sub-paragraph (*f*) (ii) of this paragraph, that their express approval is necessary.

(3) Amendment by a Conference:

(*a*) Upon the request of a Party, concurred in by at least one-third of the Parties, the Organization shall convene a Conference of Parties to the convention to consider amendments to the present Convention.

(*b*) Every amendment adopted by such a Conference by a two-thirds majority of those present and voting of the Parties shall be communicated by the Secretary-General of the Organization to all Contracting Parties for their acceptance.

(*c*) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and to have entered into force in accordance with the procedures specified for that purpose in sub-paragraphs (2) (*f*) and (*g*) of the present Article.

(4) (*a*) In the case of an amendment to an Optional Annex, a reference in the present Article to a "Party to the Convention" shall be deemed to mean a reference to a Party bound by that Annex.

(*b*) Any Party which has declined to accept an amendment to an Annex shall be treated as a non-Party only for the purpose of application of that Amendment.

(5) The adoption and entry into force of a new Annex shall be subject to the same procedures as for the adoption and entry into force of an amendment to an Article of the Convention.

(6) Unless expressly provided otherwise, any amendment to the present Convention made under this Article, which relates to the structure of a ship, shall apply only to ships for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, on or after the date on which the amendment comes into force.

(7) Any amendment to a Protocol or to an Annex shall relate to the substance of that Protocol or Annex and shall be consistent with the Articles of the present Convention.

(8) The Secretary-General of the Organization shall inform all Parties of any amendments which enter into force under the present Article, together with the date on which each such amendment enters into force.

(9) Any declaration of acceptance or of objection to an amendment under the present Article shall be notified in writing to the Secretary-General of the Organization. The latter shall bring such notification and the date of its receipt to the notice of the Parties to the Convention.

ARTICLE 17

Promotion of Technical Co-operation

The Parties to the Convention shall promote, in consultation with the Organization and other international bodies, with assistance and co-ordination by the Executive Director of the United Nations Environment Programme, support for those Parties which request technical assistance for—

(*a*) the training of scientific and technical personnel;

(*b*) the supply of necessary equipment and facilities for reception and monitoring;

(*c*) the facilitation of other measures and arrangements to prevent or mitigate pollution of the marine environment by ships; and

(*d*) the encouragement of research—

preferably within the countries concerned, so furthering the aims and purposes of the present Convention.

ARTICLE 18

Denunciation

(1) The present Convention or any Optional Annex may be denounced by any Parties to the Convention at any time after the expiry of five years from the date on which the Convention or such Annex enters into force for that Party.

(2) Denunciation shall be effected by notification in writing to the Secretary-General of the Organization who shall inform all the other Parties of any such notification received and of the date of its receipt as well as the date on which such denunciation takes effect.

(3) A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General of the Organization or after the expiry of any other longer period which may be indicated in the notification.

ARTICLE 19

Deposit and Registration

(1) The present Convention shall be deposited with the Secretary-General of the Organization who shall transmit certified true copies thereof to all States which have signed the present Convention or acceded to it.

(2) As soon as the present Convention enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

ARTICLE 20

Languages

The present Convention is established in a single copy in the English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German, Italian and Japanese languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned* being duly authorized by their respective Governments for that purpose have signed the present Convention.

DONE AT LONDON this second day of November, one thousand nine hundred and seventy-three.

* *Signatures omitted.*

PROTOCOL I

PROVISIONS CONCERNING REPORTS ON INCIDENTS INVOLVING HARMFUL SUBSTANCES

(in accordance with Article 8 of the Convention)

Article I

Duty to Report

(1) The Master of a ship involved in an incident referred to in Article III of this Protocol, or other person having charge of the ship, shall report the particulars of such incident without delay and to the fullest extent possible in accordance with the provisions of this Protocol.

(2) In the event of the ship referred to in paragraph (1) of the present Article being abandoned, or in the event of a report from such ship being incomplete or unobtainable, the owner, charterer, manager or operator of the ship, or their agents shall, to the fullest extent possible assume the obligations placed upon the Master under the provisions of this Protocol.

Article II

Methods of Reporting

(1) Each report shall be made by radio whenever possible, but in any case by the fastest channels available at the time the report is made. Reports made by radio shall be given the highest possible priority.

(2) Reports shall be directed to the appropriate officer or agency specified in paragraph (2) (*a*) of Article 8 of the Convention.

Article III

When to make Reports

The report shall be made whenever an incident involves—

(*a*) a discharge other than as permitted under the present Convention; or

(*b*) a discharge permitted under the present Convention by virtue of the fact that—

(i) it is for the purpose of securing the safety of a ship or saving life at sea; or

(ii) it results from damage to the ship or its equipment; or

(*c*) a discharge of a harmful substance for the purpose of combating a specific pollution incident or for purposes of legitimate scientific research into pollution abatement or control; or

(*d*) the probability of a discharge referred to in sub-paragraph (*a*), (*b*) or (*c*) of the present Article.

Article IV

Contents of Report

(1) Each report shall contain in general—

(*a*) the identity of the ship;

(*b*) the time and date of the occurrence of the incident;

(*c*) the geographic position of the ship when the incident occurred;

(*d*) the wind and sea conditions prevailing at the time of the incident; and

(*e*) relevant details respecting the condition of the ship.

(2) Each report shall contain, in particular—

(*a*) a clear indication or description of the harmful substances involved, including, if possible, the correct technical names of such substances (trade names should not be used in place of the correct technical names);

(*b*) a statement or estimate of the quantities, concentrations and likely conditions of harmful substances discharged or likely to be discharged into the sea; and

(*c*) where relevant, a description of the packaging and identifying marks; and

(*d*) if possible, the names of the consignor, consignee or manufacturer.

(3) Each report shall clearly indicate whether the harmful substance discharged, or likely to be discharged is oil, a noxious liquid substance, a noxious solid substance or a noxious gaseous substance and whether such substance was or is carried in bulk or contained in packaged form, freight containers, portable tanks, or road and rail tank wagons.

(4) Each report shall be supplemented as necessary by any other relevant information requested by a recipient of the report or which the person sending the report deems appropriate.

Article V

Supplementary Report

Any person who is obliged under the provisions of this Protocol to send a report shall, when possible—

(*a*) supplement the initial report, as necessary, with information concerning further developments; and

(*b*) comply as fully as possible with requests from affected States for additional information concerning the incident.

PROTOCOL II

ARBITRATION

(in accordance with Article 10 of the Convention)

Article I

Arbitration procedure, unless the Parties to the dispute decide otherwise, shall be in accordance with the rules set out in this Protocol.

Article II

(1) An Arbitration Tribunal shall be established upon the request of one Party to the Convention addressed to another in application of Article 10 of the present Convention. The request for arbitration shall consist of a statement of the case together with any supporting documents.

(2) The requesting Party shall inform the Secretary-General of the Organization of the fact that it has applied for the establishment of a Tribunal, of the names of the Parties to the dispute, and of the Articles of the Convention or Regulations over which there is in its opinion disagreement concerning their interpretation or application. The Secretary-General shall transmit this information to all Parties.

Article III

The Tribunal shall consist of three members: one Arbitrator nominated by each Party to the dispute and a third Arbitrator who shall be nominated by agreement between the two first named, and shall act as its Chairman.

Article IV

(1) If, at the end of a period of sixty days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organization upon request of either Party shall within a further period of sixty days proceed to such nomination, selecting him from a list of qualified persons previously drawn up by the Council of the Organization.

(2) If, within a period of sixty days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly inform the Secretary-General of the Organization who shall nominate the Chairman of the Tribunal within a period of sixty days, selecting him from the list prescribed in paragraph (1) of the present Article.

(3) The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organization to make the nomination in the form and conditions prescribed in the preceding paragraph.

(4) The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party.

(5) In the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of sixty days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In case of the decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article III above, or in the absence of agreement between the members of the Tribunal within a period of sixty days of the decease or default, according to the provisions of the present Article.

Article V

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Article VI

Each Party shall be responsible for the remuneration of its Arbitrator and connected costs and for the costs entailed by the preparation of its own case. The remuneration of the Chairman of the Tribunal and of all general expenses incurred by the Arbitration shall be borne equally by the Parties. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof.

Article VII

Any Party to the Convention which has an interest of a legal nature and which may be affected by the decision in the case may, after giving written notice to the Parties which have originally initiated the procedure, join in the arbitration procedure with the consent of the Tribunal.

Article VIII

Any Arbitration Tribunal established under the provisions of the present Protocol shall decide its own rules of procedure.

Article IX

(1) Decisions of the Tribunal both as to its procedure and its place of meeting and as to any question laid before it, shall be taken by majority votes of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible, shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the vote of the Chairman shall be decisive.

(2) The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal—

(*a*) provide the Tribunal with the necessary documents and information;

(*b*) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

(3) Absence or default of one Party shall not constitute an impediment to the procedure.

Article X

(1) The Tribunal shall render its award within a period of five months from the time it is established unless it decides, in the case of necessity, to extend the time limit for a further period not exceeding three months. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organization. The Parties shall immediately comply with the award.

(2) Any controversy which may arise between the Parties as regards interpretation or execution of the award may be submitted by either Party for judgment to the Tribunal which made the award, or, if it is not available, to another Tribunal constituted for this purpose, in the same manner as the original Tribunal.

Annex 1

REGULATIONS FOR THE PREVENTION OF POLLUTION BY OIL

CHAPTER I—GENERAL

Regulation 1

Definitions

For the purposes of this Annex—

(1) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals which are subject to the provisions of Annex II of the present Convention) and, without limiting the generality of the foregoing, includes the substances listed in Appendix I to this Annex.

(2) "Oily mixture" means a mixture with any oil content.

(3) "Oil fuel" means any oil used as fuel in connexion with the propulsion and auxiliary machinery of the ship in which such oil is carried.

(4) "Oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes combination carriers and any "chemical tanker" as defined in Annex II of the present Convention when it is carrying a cargo or part cargo of oil in bulk.

(5) "Combination carrier" means a ship designed to carry either oil or solid cargoes in bulk.

(6) "New ship" means a ship—

(*a*) for which the building contract is placed after 31 December 1975; or

(*b*) in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction after 30 June 1976; or

(*c*) the delivery of which is after 31 December 1979; or

(*d*) which has undergone a major conversion—

(i) for which the contract is placed after 31 December 1975; or

(ii) in the absence of a contract, the construction work of which is begun after 30 June 1976; or

(iii) which is completed after 31 December 1979.

(7) "Existing ship" means a ship which is not a new ship.

(8) "Major conversion" means a conversion of an existing ship—

(*a*) which substantially alters the dimensions or carrying capacity of the ship; or

(*b*) which changes the type of the ship; or

(*c*) the intent of which in the opinion of the Administration is substantially to prolong its life; or

(*d*) which otherwise so alters the ship that if it were a new ship, it would become subject to relevant provisions of the present Convention not applicable to it as an existing ship.

(9) "Nearest land". The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law, except that, for the purposes of the present Convention "from the nearest land" off the north eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in

latitude 11°00′ South, longitude 142°08′ East to a point in latitude 10°35′ South,
longitude 141°55′ East—thence to a point latitude 10°00′ South,
longitude 142°00′ East, thence to a point latitude 9°10′ South,
longitude 143°52′ East, thence to a point latitude 9°00′ South,
longitude 144°30′ East, thence to a point latitude 13°00′ South,
longitude 144°00′ East, thence to a point latitude 15°00′ South,
longitude 146°00′ East, thence to a point latitude 18°00′ South,
longitude 147°00′ East, thence to a point latitude 21°00′ South,
longitude 153°00′ East, thence to a point on the coast of Australia in latitude 24°42′ South, longitude 153°15′ East.

(10) "Special area" means a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by oil is required. Special areas shall include those listed in Regulation 10 of this Annex.

(11) "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.

(12) "Tank" means an enclosed space which is formed by the permanent structure of a ship and which is designed for the carriage of liquid in bulk.

(13) "Wing tank" means any tank adjacent to the side shell plating.

(14) "Centre tank" means any tank inboard of a longitudinal bulkhead.

(15) "Slop tank" means a tank specifically designated for the collection of tank drainings, tank washings and other oily mixtures.

(16) "Clean ballast" means the ballast in a tank which since oil was last carried therein, has been so cleaned that effluent therefrom if it were discharged from a ship which is stationary into clean calm water on a clear day would not produce visible traces of oil on the surface of the water or on adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. If the ballast is discharged through an oil discharge monitoring and control system approved by the Administration, evidence based on such a system to the effect that the oil content of the effluent did not exceed 15 parts per million shall be determinative that the ballast was clean, notwithstanding the presence of visible traces.

(17) "Segregated ballast" means the ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious substances as variously defined in the Annexes of the present Convention.

(18) "Length" (L) means 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline. The length (L) shall be measured in metres.

(19) "Forward and after perpendiculars" shall be taken at the forward and after ends of the length (L). The forward perpendicular shall coincide with the foreside of the stem on the waterline on which the length is measured.

(20) "Amidships" is at the middle of the length (L).

(21) "Breadth" (B) means the maximum breadth of the ship, measured amidships to the moulded line of the frame in a ship with a metal shell and to the outer surface of the hull in a ship with a shell of any other material. The breadth (B) shall be measured in metres.

(22) "Deadweight" (DW) means the difference in metric tons between the displacement of a ship in water of a specific gravity of 1.025 at the load waterline corresponding to the assigned summer freeboard and the lightweight of the ship.

(23) "Lightweight" means the displacement of a ship in metric tons without cargo, oil fuel, lubricating oil, ballast water, fresh water and feedwater in tanks, consumable stores, passengers and their effects.

(24) "Permeability" of a space means the ratio of the volume within that space which is assumed to be occupied by water to the total volume of that space.

(25) "Volumes" and "areas" in a ship shall be calculated in all cases to moulded lines.

Regulation 2

Application

(1) Unless expressly provided otherwise, the provisions of this Annex shall apply to all ships.

(2) In ships other than oil tankers fitted with cargo spaces which are constructed and utilized to carry oil in bulk of an aggregate capacity of 200 cubic metres or more, the requirements of Regulations 9, 10, 14, 15 (1), (2) and (3), 18, 20 and 24 (4) of this Annex for oil tankers shall also apply to the construction and operation of those spaces, except that where such aggregate capacity is less than 1,000 cubic metres the requirements of Regulation 15 (4) of this Annex may apply in lieu of Regulation 15 (1), (2) and (3).

(3) Where a cargo subject to the provisions of Annex II of the present Convention is carried in a cargo space of an oil tanker, the appropriate requirements of Annex II of the present Convention shall also apply.

(4) (*a*) Any hydrofoil, air-cushion vehicle and other new type of vessel (near-surface craft, submarine craft, etc.) whose constructional features are such as to render the application of any of the provisions of Chapters II and III of this Annex relating to construction and equipment unreasonable or impracticable may be exempted by the Administration from such provisions, provided that the construction and equipment of that ship provides equivalent protection against pollution by oil, having regard to the service for which it is intended.

(*b*) Particulars of any such exemption granted by the Administration shall be indicated in the Certificate referred to in Regulation 5 of this Annex.

(*c*) The Administration which allows any such exemption shall, as soon as possible, but not more than ninety days thereafter, communicate to the Organization particulars of same and the reasons therefor, which the Organization shall circulate to the Parties to the Convention for their information and appropriate action, if any.

Regulation 3

Equivalents

(1) The Administration may allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by this Annex if such fitting, material, appliance or apparatus is at least as effective as that required by this Annex. This authority of the Administration shall not extend to substitution of operational methods to effect the control of discharge of oil as equivalent to those design and construction features which are prescribed by Regulations in this Annex.

(2) The Administration which allows a fitting, material, appliance or apparatus, as an alternative to that required by this Annex shall communicate to the Organization for circulation to the Parties to the Convention particulars thereof, for their information and appropriate action, if any.

Regulation 4

Surveys

(1) Every oil tanker of 150 tons gross tonnage and above, and every other ship of 400 tons gross tonnage and above shall be subject to the surveys specified below:

(*a*) An initial survey before the ship is put in service or before the Certificate required under Regulation 5 of this annex is issued for the first time, which shall include a complete survey of its structure, equipment, fittings, arrangements and material in so far as the ship is covered by this Annex. This survey shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex.

(*b*) Periodical surveys at intervals specified by the Administration, but not exceeding five years, which shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex. However, where the duration of the International Oil Pollution Prevention Certificate (1973) is extended as specified in Regulation 8 (3) or (4) of this Annex, the interval of the periodical survey may be extended correspondingly.

(*c*) Intermediate surveys at intervals specified by the Administration but not exceeding thirty months, which shall be such as to ensure that the equipment and associated pump and piping systems, including oil discharge monitoring and control systems, oily-water separating equipment and oil filtering systems, fully comply with the applicable requirements of this Annex and are in good working order. Such intermediate surveys shall be endorsed on the International Oil Pollution Prevention Certificate (1973) issued under Regulation 5 of this Annex.

(2) The Administration shall establish appropriate measures for ships which are not subject to the provisions of paragraph (1) of this Regulation in order to ensure that the applicable provisions of this Annex are complied with.

(3) Surveys of the ship as regards enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it. In every case the Administration concerned fully guarantees the completeness and efficiency of the surveys.

(4) After any survey of the ship under this Regulation has been completed, no significant change shall be made in the structure, equipment, fittings, arrangements or material covered by the survey without the sanction of the Administration, except the direct replacement of such equipment or fittings.

Regulation 5

Issue of Certificate

(1) An International Oil Pollution Prevention Certificate (1973) shall be issued, after survey in accordance with the provisions of Regulation 4 of this Annex, to any oil tanker of 150 tons gross tonnage and above and any other ships of 400 tons gross tonnage and above which are engaged in voyages to ports or off-shore terminals under the jurisdiction of other Parties to the Convention. In the case of existing ships this requirement shall apply twelve months after the date of entry into force of the present Convention.

(2) Such Certificate shall be issued either by the Administration or by any persons or organization duly authorized by it. In every case the Administration assumes full responsibility for the certificate.

Regulation 6

Issue of a Certificate by another Government

(1) The Government of a Party to the Convention may, at the request of the Administration, cause a ship to be surveyed and, if satisfied that the provisions of this Annex are complied with, shall issue or authorize the issue of an International Oil Pollution Prevention Certificate (1973) to the ship in accordance with this Annex.

(2) A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

(3) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as the Certificate issued under Regulation 5 of this Annex.

(4) No International Oil Pollution Prevention Certificate (1973) shall be issued to a ship which is entitled to fly the flag of a State which is not a Party.

Regulation 7

Form of Certificate

The International Oil Pollution Prevention Certificate (1973) shall be drawn up in an official language of the issuing country in the form corresponding to the model given in Appendix II to this Annex. If the language used is neither English nor French, the text shall include a translation into one of these languages.

Regulation 8

Duration of Certificate

(1) An International Oil Pollution Prevention Certificate (1973) shall be issued for a period specified by the Administration, which shall not exceed five years from the date of issue, except as provided in paragraphs (2), (3) and (4) of this Regulation.

(2) If a ship at the time when the Certificate expires is not in a port or off-shore terminal under the jurisdiction of the Party to the Convention whose flag the ship is entitled to fly, the Certificate may be extended by the Administration, but such extension shall be granted only for the purpose of allowing the ship to complete its voyage to the State whose flag the ship is entitled to fly or in which it is to be surveyed and then only in cases where it appears proper and reasonable to do so.

(3) No Certificate shall be thus extended for a period longer than five months and a ship to which such extension is granted shall not on its arrival in the State whose flag it is entitled to fly or the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port or State without having obtained a new Certificate.

(4) A Certificate which has not been extended under the provisions of paragraph (2) of this Regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it.

(5) A Certificate shall cease to be valid if significant alterations have taken place in the construction, equipment, fittings, arrangements, or material required without the sanction of the Administration, except the direct replacement of such equipment or fittings, or if intermediate surveys as specified by the Administration under Regulation 4 (1) (*c*) of this Annex are not carried out.

(6) A Certificate issued to a ship shall cease to be valid upon transfer of such a ship to the flag of another State, except as provided in paragraph (7) of this Regulation.

(7) Upon transfer of a ship to the flag of another Party, the Certificate shall remain in force for a period not exceeding five months provided that it would not have expired before the end of that period, or until the Administration issues a replacement Certificate, whichever is earlier. As soon as possible after the transfer has taken place the Government of the Party whose flag the ship was formerly entitled to fly shall transmit to the Administration a copy of the Certificate carried by the ship before the transfer, and, if available, a copy of the relevant survey report.

CHAPTER II—REQUIREMENTS FOR CONTROL OF OPERATIONAL POLLUTION

Regulation 9

Control of Discharge of Oil

(1) Subject to the provisions of Regulations 10 and 11 of this Annex and paragraph (2) of this Regulation, any discharge into the sea of oil or oily mixtures from ships to which this Annex applies shall be prohibited except when all the following conditions are satisfied:

(*a*) For an oil tanker, except as provided for in sub-paragraph (*b*) of this paragraph—

(i) the tanker is not within a special area;

(ii) the tanker is more than 50 nautical miles from the nearest land;

(iii) the tanker is proceeding en route;

(iv) the instantaneous rate of discharge of oil content does not exceed 60 litres per nautical mile;

(v) the total quantity of oil discharged into the sea does not exceed for existing tankers 1/15 000 of the total quantity of the particular cargo of which the residue formed a part, and for new tankers 1/30 000 of the total quantity of the particular cargo of which the residue formed a part; and

(vi) the tanker has in operation, except as provided for in Regulation 15 (5) and (6) of this Annex, an oil discharge monitoring and control system and a slop tank arrangement as required by Regulation 15 of this Annex;

(*b*) From a ship of 400 tons gross tonnage and above other than an oil tanker and from machinery space bilges excluding cargo pump room bilges of an oil tanker unless mixed with oil cargo residue—

(i) the ship is not within a special area;

(ii) the ship is more than 12 nautical miles from the nearest land;

(iii) the ship proceeding en route;

(iv) the oil content of the effluent is less than 100 parts per million; and

(v) the ship has in operation an oil discharge monitoring and control system, oily-water separating equipment, oil filtering system or other installation as required by Regulation 16 of this Annex.

(2) In the case of a ship of less than 400 tons gross tonnage other than an oil tanker whilst outside the special area, the Administration shall ensure that it is equipped as far as practicable and reasonable with installations to ensure the storage of oil residues on board and their discharge to reception facilities or into the sea in compliance with the requirements of paragraph (1) (*b*) of this Regulation.

(3) Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, Governments of Parties to the Convention should, to the extent they are reasonably able to do so, promptly investigate the facts bearing on the issue of whether there has been a violation of the provisions of this Regulation or Regulation 10 of this Annex. The investigation should include, in particular, the wind and sea conditions, the track and speed of the ship, other possible sources of the visible traces in the vicinity, and any relevant oil discharge records.

(4) The provisions of paragraph (1) of this Regulation shall not apply to the discharge of clean or segregated ballast. The provisions of sub-paragraph (1) (*b*) of this Regulation shall not apply to the discharge of oily mixture which without dilution has an oil content not exceeding 15 parts per million.

(5) No discharge into the sea shall contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Regulation.

(6) The oil residues which cannot be discharged into the sea in compliance with paragraphs (1), (2) and (4) of this Regulation shall be retained on board or discharged to reception facilities.

Regulation 10

Methods for the Prevention of Oil Pollution from Ships while operating in Special Areas

(1) For the purposes of this Annex the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area and the Gulfs area which are defined as follows:

(*a*) The Mediterranean Sea area means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41°N parallel and bounded to the west by the Straits of Gibraltar at the meridian of 5°36′W.

(*b*) The Baltic Sea area means the Baltic Sea proper with the Gulf of Bothnia, the Gulf of Finland and the entrance to the Baltic sea bounded by the parallel of the Skaw in the Skagerrak at 57°44.8′N.

(*c*) The Black Sea area means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41°N.

(*d*) The Red Sea area means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12°8.5′N, 43°19.6′E) and Husn Murad (12°40.4′N, 43°30.2′E).

(*e*) The Gulfs area means the sea area located north west of the rhumb line between Ras al Hadd (22°30′N, 59°48′E) and Ras Al Fasteh (25°04′N, 61°25′E).

(2) (*a*) Subject to the provisions of Regulation 11 of this Annex, any discharge into the sea of oil or oily mixture from any oil tanker and any ship of 400 tons gross tonnage and above other than an oil tanker shall be prohibited, while in a special area.

(*b*) Such ships while in a special area shall retain on board all oil drainage and sludge, dirty ballast and tank washing waters and discharge them only to reception facilities.

(3) (*a*) Subject to the provisions of Regulation 11 of this Annex, any discharge into the sea of oil or oily mixture from a ship of less than 400 tons gross tonnage, other than an oil tanker, shall be prohibited while in a special area, except when the oil content of the effluent without dilution does not exceed 15 parts per million or alternatively when all of the following conditions are satisfied:

(i) The ship is proceeding en route;

(ii) The oil content of the effluent is less than 100 parts per million; and

(iii) The discharge is made as far as practicable from the land, but in no case less than 12 nautical miles from the nearest land.

(*b*) No discharge into the sea shall contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Regulation.

(*c*) The oil residues which cannot be discharged into the sea in compliance with sub-paragraph (*a*) of this paragraph shall be retained on board or discharged to reception facilities.

(4) The provisions of this Regulation shall not apply to the discharge of clean or segregated ballast.

(5) Nothing in this Regulation shall prohibit a ship on a voyage only part of which is in a special area from discharging outside the special area in accordance with Regulation 9 of this Annex.

(6) Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, the Governments of Parties to the Convention should, to the extent they are reasonably able to do so, promptly investigate the facts bearing on the issue of whether there has been a violation of the provisions of this Regulation or Regulation 9 of this Annex. The investigation should include, in particular, the wind and sea conditions, the track and speed of the ship, other possible sources of the visible traces in the vicinity, and any relevant oil discharge records.

(7) Reception facilities within special areas:

(*a*) Mediterranean Sea, Black Sea and Baltic Sea areas:

(i) The Government of each Party to the Convention, the coastline of which borders on any given special area, undertakes to ensure that not later than 1 January 1977 all oil loading terminals and repair ports within the special area are provided with facilities adequate for the reception and treatment of all the dirty ballast and tank washing water from oil tankers. In addition all ports within the special area shall be provided with adequate reception facilities for other residues and oily mixtures from all ships. Such facilities shall have adequate capacity to meet the needs of the ships using them without causing undue delay.

(ii) The Government of each Party having under its jurisdiction entrances to seawater courses with low depth contour which might require a reduction of draught by the discharge of ballast undertakes to ensure the provision of the facilities referred to in sub-paragraph (*a*) (i) of this paragraph but with the proviso that ships required to discharge slops or dirty ballast could be subject to some delay.

(iii) During the period between the entry into force of the present Convention (if earlier than 1 January 1977) and 1 January 1977 ships while navigating in the special areas shall comply with the requirements of Regulation 9 of this Annex. However, the Governments of Parties the coastlines of which boarder on any of the special areas under this sub-paragraph may establish a date earlier than 1 January 1977 but after the date of entry into force of the present Convention, from which the requirements of this Regulation in respect of the special areas in question shall take effect—

(1) if all the reception facilities required have been provided by the date so established; and

(2) provided that the Parties concerned notify the Organization of the date so established at least six months in advance, for circulation to other Parties.

(iv) After 1 January 1977, or the date established in accordance with sub-paragraph (*a*) (iii) of this paragraph if earlier, each Party shall notify the Organization for transmission to the Contracting Governments concerned of all cases where the facilities are alleged to be inadequate.

(*b*) Red Sea area and Gulfs area:

(i) The Government of each Party the coastline of which boarders on the special areas undertakes to ensure that as soon as possible all oil loading terminals and repair ports within these special areas are provided with facilities adequate for the reception and treatment of all the dirty ballast and tank washing water from tankers. In addition all ports within the special area shall be provided with adequate reception facilities for other residues and oily mixtures from all ships. Such facilities shall have adequate capacity to meet the needs of the ships using them without causing undue delay.

(ii) The Government of each Party having under its jurisdiction entrances to seawater courses with low depth contour which might require a reduction of draught by the discharge of ballast shall undertake to ensure the provision of the facilities referred to in sub-paragraph (*b*) (i) of this paragraph but with the proviso that ships required to discharge slops or dirty ballast could be subject to some delay.

(iii) Each Party concerned shall notify the Organization of the measures taken pursuant to provisions of sub-paragraph (*b*) (i) and (ii) of this paragraph. Upon receipt of sufficient notifications the Organization shall establish a date from which the requirements of this Regulation in respect of the area in question shall take effect. The Organization shall notify all Parties of the date so established no less than twelve months in advance of that date.

(iv) During the period between the entry into force of the present Convention and the date so established, ships while navigating in the special area shall comply with the requirements of Regulation 9 of this Annex.

(v) After such date oil tankers loading in ports in these special areas where such facilities are not yet available shall also fully comply with the requirements of this Regulation. However, oil tankers entering these special areas for the purpose of loading shall make every effort to enter the area with only clean ballast on board.

(vi) After the date on which the requirements for the special area in question take effect, each Party shall notify the Organization for transmission to the Parties concerned of all cases where the facilities are alleged to be inadequate.

(vii) At least the reception facilities as prescribed in Regulation 12 of this Annex shall be provided by 1 January 1977 or one year after the date of entry into force of the present Convention, whichever occurs later.

Regulation 11

Exceptions

Regulations 9 and 10 of this Annex shall not apply to—

(*a*) the discharge into the sea of oil or oily mixture necessary for the purpose of securing the safety of a ship or saving life at sea; or

(*b*) the discharge into the sea of oil or oily mixture resulting from damage to a ship or its equipment—

(i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimizing the discharge; and

(ii) except if the owner or the Master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

(*c*) the discharge into the sea of substances containing oil, approved by the Administration, when being used for the purpose of combating specific pollution incidents in order to minimize the damage from pollution. Any such discharge shall be subject to the approval of any Government in whose jurisdiction it is contemplated the discharge will occur.

Regulation 12

Reception Facilities

(1) Subject to the provisions of Regulation 10 of this Annex, the Government of each Party undertakes to ensure the provision at oil loading terminals, repair ports, and in other ports in which ships have oily residues to discharge, of facilities for the reception of such residues and oily mixtures as remain from oil tankers and other ships adequate to meet the needs of the ships using them without causing undue delay to ships.

(2) Reception facilities in accordance with paragraph (1) of this Regulation shall be provided in—

(*a*) all ports and terminals in which crude oil is loaded into oil tankers where such tankers have immediately prior to arrival completed a ballast voyage of not more than 72 hours or not more than 1,200 nautical miles;

(*b*) all ports and terminals in which oil other than crude oil in bulk is loaded at an average quantity of more than 1,000 metric tons per day;

(*c*) all ports having ship repair yards or tank cleaning facilities;

(*d*) all ports and terminals which handle ships provided with the sludge tank(s) required by Regulation 17 of this Annex;

(*e*) all ports in respect of oily bilge waters and other residues, which cannot be discharged in accordance with Regulation 9 of this Annex; and

(*f*) all loading ports for bulk cargoes in respect of oil residues from combination carriers which cannot be discharged in accordance with Regulation 9 of this Annex.

(3) The capacity for the reception facilities shall be as follows:

(*a*) Crude oil loading terminals shall have sufficient reception facilities to receive oil and oily mixtures which cannot be discharged in accordance with the provisions of Regulation 9 (1) (*a*) of this Annex from all oil tankers on voyages as described in paragraph (2) (*a*) of this Regulation.

(*b*) Loading ports and terminals referred to in paragraph (2) (*b*) of this Regulation shall have sufficient reception facilities to receive oil and oily mixtures which cannot be discharged in accordance with the provisions of Regulation 9 (1) (*a*) of this Annex from oil tankers which load oil other than crude oil in bulk.

(*c*) All ports having ship repair yards or tank cleaning facilities shall have sufficient reception facilities to receive all residues and oily mixtures which remain on board for disposal from ships prior to entering such yards or facilities.

(*d*) All facilities provided in ports and terminals under paragraph (2) (*d*) of this Regulation shall be sufficient to receive all residues retained according to Regulation 17 of this Annex from all ships that may reasonably be expected to call at such ports and terminals.

(*e*) All facilities provided in ports and terminals under this Regulation shall be sufficient to receive oily bilge waters and other residues which cannot be discharged in accordance with Regulation 9 of this Annex.

(*f*) The facilities provided in loading ports for bulk cargoes shall take into account the special problems of combination carriers as appropriate.

(4) The reception facilities prescribed in paragraphs (2) and (3) of this Regulation shall be made available no later than one year from the date of entry into force of the present Convention or by 1 January 1977, whichever occurs later.

(5) Each Party shall notify the Organization for transmission to the Parties concerned of all cases where the facilities provided under this Regulation are alleged to be inadequate.

Regulation 13

Segregated Ballast Oil Tankers

(1) Every new oil tanker of 70,000 tons deadweight and above shall be provided with segregated ballast tanks and shall comply with the requirements of this Regulation.

(2) The capacity of the segregated ballast tanks shall be so determined that the ship may operate safely on ballast voyages without recourse to the use of oil tanks for water ballast except as provided for in paragraph (3) of this Regulation. In all cases, however, the capacity of segregated ballast tanks shall be at least such that in any ballast condition at any part of the voyage, including the conditions consisting of lightweight plus segregated ballast only, the ship's draughts and trim can meet each of the following requirements:

(*a*) The moulded draught amidships (dm) in metres (without taking into account any ship's deformation) shall not be less than:

$$dm = 2.0 + 0.02L;$$

(*b*) The draughts at the forward and after perpendiculars shall correspond to those determined by the draught amidships (dm), as specified in sub-paragraph (*a*) of this paragraph, in association with the trim by the stern of not greater than 0.015L; and

(*c*) In any case the draught at the after perpendicular shall not be less than that which is necessary to obtain full immersion of the propeller(s).

(3) In no case shall ballast water be carried in oil tanks except in weather conditions so severe that, in the opinion of the Master, it is necessary to carry additional ballast water in oil tanks for the safety of the ship. Such additional ballast water shall be processed and discharged in compliance with Regulation 9 and in accordance with the requirements of Regulation 15 of this Annex, and entry shall be made in the Oil Record Book referred to in Regulation 20 of this Annex.

(4) Any oil tanker which is not required to be provided with segregated ballast tanks in accordance with paragraph (1) of this Regulation may, however, be qualified as a segregated ballast tanker, provided that in the case of an oil tanker of 150 metres in length and above it fully complies with the requirements of paragraphs (2) and (3) of this Regulation and in the case of an oil tanker of less than 150 metres in length the segregated ballast conditions shall be to the satisfaction of the Administration.

Regulation 14

Segregation of Oil and Water Ballast

(1) Except as provided in paragraph (2) of this Regulation, in new ships of 4000 tons gross tonnage and above other than oil tankers, and in new oil tankers of 150 tons gross tonnage and above, no ballast water shall be carried in any oil fuel tank.

(2) Where abnormal conditions or the need to carry large quantities of oil fuel render it necessary to carry ballast water which is not a clean ballast in any oil fuel tank, such ballast water shall be discharged to reception facilities or into the sea in compliance with Regulation 9 using the equipment specified in Regulation 16 (2) of this Annex, and an entry shall be made in the Oil Record Book to this effect.

(3) All other ships shall comply with the requirements of paragraph (1) of this Regulation as far as reasonable and practicable.

Regulation 15

Retention of Oil on Board

(1) Subject to the provisions of paragraphs (5) and (6) of this Regulation, oil tankers of 150 tons gross tonnage and above shall be provided with arrangements in accordance with the requirements of paragraphs (2) and (3) of this Regulation, provided that in the case of existing tankers the requirements for oil discharge monitoring and control systems and slop tank arrangements shall apply three years after the date of entry into force of the present Convention.

(2) (*a*) Adequate means shall be provided for cleaning the cargo tanks and transferring the dirty ballast residue and tank washings from the cargo tanks into a slop tank approved by the Administration. In existing oil tankers, any cargo tank may be designated as a slop tank.

(*b*) In this system arrangements shall be provided to transfer the oily waste into a slop tank or combination of slop tanks in such a way that any effluent discharged into the sea will be such as to comply with the provisions of Regulation 9 of this Annex.

(*c*) The arrangements of the slop tank or combination of slop tanks shall have a capacity necessary to retain the slops generated by tank washing, oil residues and dirty ballast residues but the total shall be not less than 3 per cent of the oil carrying capacity of the ship, except that, where segregated ballast tanks are provided in accordance with Regulation 13 of this Annex, or where arrangements such as eductors involving the use of water additional to the washing water are not fitted, the Administration may accept 2 per cent. New oil tankers over 70 000 tons deadweight shall be provided with at least two slop tanks.

(*d*) Slop tanks shall be so designed particularly in respect of the position of inlets, outlets, baffles or weirs where fitted, so as to avoid excessive turbulence and entrainment of oil or emulsion with the water.

(3) (*a*) An oil discharge monitoring and control system approved by the Administration shall be fitted. In considering the design of the oil content meter to be incorporated in the system, the Administration shall have regard to the specification recommended by the Organization.* The system shall be fitted with a recording device to provide a continuous record of the discharge in litres per nautical mile and total quantity discharged, or the oil content and rate of discharge. This record shall be identifiable as to time and

date and shall be kept for at least three years. The oil discharge monitor and control system shall come into operation when there is any discharge of effluent into the sea and shall be such as will ensure that any discharge of oily mixture is automatically stopped when the instantaneous rate of discharge of oil exceeds that permitted by Regulation 9 (1) (*a*) of this Annex. Any failure of this monitoring and control system shall stop the discharge and be noted in the Oil Record Book. A manually operated alternative method shall be provided and may be used in the event of such failure, but the defective unit shall be made operable before the oil tanker commences its next ballast voyage unless it is proceeding to a repair port. Existing oil tankers shall comply with all of the provisions specified above except that the stopping of the discharge may be performed manually and the rate of discharge may be estimated from the pump characteristic.

* Reference is made to the recommendation on International Performance Specifications for Oily-Water Separating Equipment and Oil Content Meters adopted by the Organization by Resolution A.233 (VII).

(*b*) Effective oil/water interface detectors approved by the Administration shall be provided for a rapid and accurate determination of the oil/water interface in slop tanks and shall be available for use in other tanks where the separation of oil and water is effected and from which it is intended to discharge effluent direct to the sea.

(*c*) Instructions as to the operation of the system shall be in accordance with an operational manual approved by the Administration. They shall cover manual as well as automatic operations and shall be intended to ensure that at no time shall oil be discharged except in compliance with the conditions specified in Regulation 9 of this Annex.*

* Reference is made to "Clean Seas Guide for Oil Tankers", published by the International Chamber of Shipping and the Oil Companies International Marine Forum.

(4) The requirements of paragraphs (1), (2) and (3) of this Regulation shall not apply to oil tankers of less than 150 tons gross tonnage, for which the control of discharge of oil under Regulation 9 of this Annex shall be effected by the retention of oil on board with subsequent discharge of all contaminated washings to reception facilities. The total quantity of oil and water used for washing and returned to a storage tank shall be recorded in the Oil Record Book. This total quantity shall be discharged to reception facilities unless adequate arrangements are made to ensure that any effluent which is allowed to be discharged into the sea is effectively monitored to ensure that the provisions of Regulation 9 of this Annex are complied with.

(5) The Administration may waive the requirements of paragraphs (1), (2) and (3) of this Regulation for any oil tanker which engages exclusively on voyages both of 72 hours or less in duration and within 50 miles from the nearest land, provided that the oil tanker is not required to hold and does not hold an International Oil Pollution Prevention Certificate (1973). Any such waiver shall be subject to the requirement that the oil tanker shall retain on board all oily mixtures for subsequent discharge to reception facilities and to the determination by the Administration that facilities available to receive such oily mixtures are adequate.

(6) Where in the view of the Organization equipment required by Regulation 9 (1) (*a*) (vi) of this Annex and specified in sub-pargraph (3) (*a*) of this Regulation is not obtainable for the monitoring of discharge of light refined products (white oils), the Administration may waive compliance with such requirement, provided that discharge shall be permitted only in compliance with procedures established by the Organization which shall satisfy the conditions of Regulation 9 (1) of this Annex except the obligation to have an oil discharge monitoring and control system in operation. The Organization shall review the availability of equipment at intervals not exceeding twelve months.

(7) The requirements of paragraphs (1), (2) and (3) of this Regulation shall not apply to oil tankers carrying asphalt, for which the control of discharge of asphalt under Regulation 9 of this Annex shall be effected by the retention of asphalt residues on board with discharge of all contaminated washings to reception facilities.

Regulation 16

Oil Discharge Monitoring and Control System and Oily-Water Separating Equipment

(1) Any ship of 400 tons gross tonnage and above shall be fitted with an oily-water separating equipment or filtering system complying with the provisions of paragraph (6) of this Regulation. Any such ship which carries large quantities of oil fuel shall comply with paragraph (2) of this Regulation or paragraph (1) of Regulation 14.

(2) Any ship of 10,000 tons gross tonnage and above shall be fitted—

(*a*) in addition to the requirements of paragraph (1) of this Regulation with an oil discharge monitoring and control system complying with paragraph (5) of this Regulation; or

(*b*) as an alternative to the requirements of paragraph (1) and sub-paragraph (2) (*a*) of this Regulation, with an oily-water separating equipment complying with paragraph (6) of this Regulation and an effective filtering system, complying with paragraph (7) of this Regulation.

(3) The Administration shall ensure that ships of less than 400 tons gross tonnage are equipped, as far as practicable, to retain on board oil or oily mixtures or discharge them in accordance with the requirements of Regulation 9 (1) (*b*) of this Annex.

(4) For existing ships the requirements of paragraphs (1), (2) and (3) of this Regulation shall apply three years after the date of entry into force of the present Convention.

(5) An oil discharge monitoring and control system shall be of a design approved by the Administration. In considering the design of the oil content meter to be incorporated into the system, the Administration shall have regard to the specification recommended by the Organization.* The system shall be fitted with a recording device to provide a continuous record of the oil content in parts per million. This record shall be identifiable as to time and date and shall be kept for at least three years. The monitoring and control system shall come into operation when there is any discharge of effluent into the sea and shall be such as will ensure that any discharge of oily mixture is automatically stopped when the oil content of effluent exceeds that permitted by Regulation 9 (1) (*b*) of this Annex. Any failure of this monitoring and control system shall stop the discharge and be noted in the Oil Record Book. The defective unit shall be made operable before the ship commences its next voyage unless it is proceeding to a repair port. Existing ships shall comply with all of the provisions specified above except that the stopping of the discharge may be performed manually.

(6) Oily-water separating equipment or an oil filtering system shall be of a design approved by the Administration and shall be such as will ensure that any oily mixture discharged into the sea after passing through the separator or filtering systems shall have an oil content of not less than 100 parts per million. In considering the design of such equipment, the Administration shall have regard to the specification recommended by the Organization.*

(7) The oil filtering system referred to in paragraph (2) (*b*) of this Regulation shall be of a design approved by the Administration and shall be such that it will accept the discharge from the separating system and produce an effluent the oil content of which does not exceed 15 parts per million. It shall be provided with alarm arrangements to indicate when this level cannot be maintained.

Regulation 17

Tanks for Oil Residues (Sludge)

(1) Every ship of 400 ton gross tonnage and above shall be provided with a tank or tanks of adequate capacity, having regard to the type of machinery and length of voyage, to receive the oily residues (sludges) which cannot be dealt with otherwise in accordance with the requirements of this Annex, such as those resulting from the purification of fuel and lubricating oils and oil leakages in the machinery spaces.

(2) In new ships, such tanks shall be designed and constructed so as facilitate their cleaning and the discharge of residues to reception facilities. Existing ships shall comply with this requirement as far as is reasonable and practicable.

Regulation 18

Pumping, Piping and Discharge Arrangements of Oil Tankers

(1) In every oil tanker, a discharge manifold for connexion to reception facilities for the discharge of dirty ballast water or oil contaminated water shall be located on the open deck on both sides of the ship.

(2) In every oil tanker, pipelines for the discharge to the sea of effluent which may be permitted under Regulation 9 of this Annex shall be led to the open deck or to the ship's side above the waterline in the deepest ballast condition. Different piping arrangements to permit operation in the manner permitted in sub-paragraphs (4) (*a*) and (*b*) of this Regulation may be accepted.

* Reference is made to the Recommendation on International Performance Specifications for Oily-Water Separating Equipment and Oil Content Meters adopted by the Organization by Resolution A.233 (VII).

(3) In new oil tankers means shall be provided for stopping the discharge of effluent into the sea from a position on upper deck or above located so that the manifold in use referred to in paragraph (1) of this Regulation and the effluent from the pipelines referred to in paragraph (2) of this Regulation may be visually observed. Means for stopping the discharge need not be provided at the observation position if a positive communication system such as telephone or radio system is provided between the observation position and the discharge control position.

(4) All discharges shall take place above the waterline except as follows:

(*a*) Segregated ballast and clean ballast may be discharged below the waterline in ports or at off-shore terminals.

(*b*) Existing ships which, without modification, are not capable of discharging segregated ballast above the waterline may discharge segregated ballast below the waterline provided that an examination of the tank immediately before the discharge has established that no contamination with oil has taken place.

Regulation 19

Standard Discharge Connection

To enable pipes of reception facilities to be connected with the ship's discharge pipeline for residues from machinery bilges, both lines shall be fitted with a standard discharge connection in accordance with the following table:

STANDARD DIMENSIONS OF FLANGES FOR DISCHARGE CONNECTIONS

Description	*Dimension*
Outside diameter	215 mm
Inner Diameter	According to pipe outside diameter
Bolt circle diameter	183 mm
Slots in flange	6 holes 22mm in diameter equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width to be 22 mm
Flange thickness	20 mm
Bolts and nuts: quantity, diameter	6, each of 20 mm in diameter and of suitable length
The flange is designed to accept pipes up to a maximum internal diameter of 125 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a gasket of oilproof material, shall be suitable for a service pressure of 6 kg/cm^2.	

Regulation 20

Oil Record Book

(1) Every oil tanker of 150 tons gross tonnage and above and every ship of 400 tons gross tonnage and above other than an oil 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 Appendix III to this Annex.

(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:

(*a*) For oil tankers—

(i) loading of oil cargo;

(ii) internal transfer of oil cargo during voyage;

(iii) opening or closing before and after loading and unloading operations of valves or similar devices which inter-connect cargo tanks;

(iv) opening or closing of means of communication between cargo piping and seawater ballast piping;

(v) opening or closing of ships' side valves before, during and after loading and unloading operations;

(vi) unloading of oil cargo;

(vii) ballasting of cargo tanks;

(viii) cleaning of cargo tanks;

(ix) discharge of ballast except from segregated ballast tanks;

(x) discharge of water from slop tanks;

(xi) disposal of residues;

(xii) discharge overboard of bilge water which has accumulated in machinery spaces whilst in port, and the routine discharge at sea of bilge water which has accumulated in machinery spaces;

(*b*) For ships other than oil tankers—

(i) ballasting or cleaning of fuel oil tanks or oil cargo spaces;

(ii) discharge of ballast or cleaning water from tanks referred to under (i) of this sub-paragraph;

(iii) disposal of residues;

(iv) discharge overboard of bilge water which has accumulated in machinery spaces whilst in port, and the routine discharge at sea of bilge water which has accumulated in machinery spaces.

(3) In the event of such discharge of oil or oily mixture as is referred to in Regulation 11 of this Annex or in the event of accidental or other exceptional discharge of oil not excepted by that Regulation, a statement shall be made in the Oil Record Book of the circumstances of, and the reasons for, the discharge.

(4) Each operation described in paragraph (2) of this Regulation shall be fully recorded without delay in the Oil Record Book so that all the entries in the book appropriate to that operation are completed. Each section of the book shall be signed by the officer or officers in charge of the operations concerned and shall be countersigned by the Master of the ship. The entries in the Oil Record Book shall be in an official language of the State whose flag the ship is entitled to fly, and, for ships holding an International Oil Pollution Prevention Certificate (1973), in English or French. The entries in an official national language of the State whose flag the ship is entitled to fly shall prevail in case of a dispute or discrepancy.

(5) The Oil Record Book shall be kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship. It shall be preserved for a period of three years after the last entry has been made.

(6) The competent authority of the Government of a Party to the Convention may inspect the Oil Record Book on board any ship to which this Annex applies while the ship is in its port or off-shore terminals and may make a copy of any entry in that book and may require the Master of the ship to certify that the copy is a true copy of such entry. Any copy so made which has been certified by the Master of the ship as a true copy of an entry in the ship's Oil Record Book shall be made admissible in any judicial proceedings as evidence of the facts stated in the entry. The inspection of an Oil Record Book and the taking of a certified copy by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

Regulation 21

Special Requirements for Drilling Rigs and other Platforms

Fixed and floating drilling rigs when engaged in the exploration, exploitation and associated off-shore processing of sea-bed mineral resources and other platforms shall comply with the requirements of this Annex applicable to ships of 400 tons gross tonnage and above other than oil tankers, except that—

(*a*) they shall be equipped as far as practicable with the installations required in Regulations 16 and 17 of this Annex;

(*b*) they shall keep a record of all operations involving oil or oily mixture discharges, in a form approved by the Administration; and

(*c*) in any special area and subject to the provisions of Regulation 11 of this Annex, the discharge into the sea of oil or oily mixture shall be prohibited except when the oil content of the discharge without dilution does not exceed 15 parts per million.

CHAPTER III—REQUIREMENTS FOR MINIMIZING OIL POLLUTION FROM OIL TANKERS DUE TO SIDE AND BOTTOM DAMAGES

Regulation 22

Damage Assumptions

(1) For the purpose of calculating hypothetical oil outflow from oil tankers, three dimensions of the extent of damage of a parallelepiped on the side and bottom of the ship are assumed as follows. In the case of bottom damages two conditions are set forth to be applied individually to the stated portions of the oil tanker.

(*a*) *Side damage*

(i) Longitudinal extent (l_c):	$\frac{1}{3}L^{\frac{2}{3}}$ or 14.5 metres, whichever is less
(ii) Transverse extent (t_c): (inboard from the ship's side at right angles to the centreline at the level corresponding to the assigned summer free-board)	$\frac{B}{5}$ or 11.5 metres, whichever is less
(iii) Vertical extent (V_c):	from the base line upwards without limit

(*b*) *Bottom damage*

	For 0.3L from the forward perpendicular of the ship	Any other part of the ship
(i) Longitudinal extent (l_s):	$\frac{L}{10}$	$\frac{L}{10}$ or 5 metres, whichever is less
(ii) Transverse extent (t_s):	$\frac{B}{6}$ or 10 metres, whichever is less but not less than 5 metres	5 metres
(iii) Vertical extent from the base line (v_s):	$\frac{B}{15}$ or 6 metres, whichever is less	

(2) Wherever the symbols given in this Regulation appear in this Chapter, they have the meaning as defined in this Regulation.

Regulation 23

Hypothetical Outflow of Oil

(1) The hypothetical outflow of oil in the case of side damage (O_c) and bottom damage (O_s) shall be calculated by the following formulae with respect to compartments breached by damage to all conceivable locations along the length of the ship to the extent as defined in Regulation 22 of this Annex.

(*a*) for side damages:

$$O_c = \Sigma W_i + \Sigma K_i C_i \qquad \text{(I)}$$

(*b*) for bottom damages:

$$O_s = \tfrac{1}{3} (\Sigma Z_i W_i + \Sigma Z_i C_i) \qquad \text{(II)}$$

where: W_i = volume of a wing tank in cubic metres assumed to be breached by the damages as specified in Regulation 22 of this Annex; W_i for a segregated ballast tank may be taken equal to zero,

C_i = volume of a centre tank in cubic metres assumed to be breached by the damage as specified in Regulation 22 of this Annex; C_i for a segregated ballast tank may be taken equal to zero,

$K_i = 1 - \frac{b_i}{t_c}$ when b_i is equal to or greater than t_c, K_i shall be taken equal to zero,

$Z_i = 1 - \frac{h_i}{v_s}$ when h_i is equal to or greater than v_s, Z_i shall be taken equal to zero,

b_i = width of wing tank in metres under consideration measured inboard from the ship's side at right angles to the centreline at the level corresponding to the assigned summer freeboard,

h_i = minimum depth of the double bottom in metres under consideration; where no double bottom is fitted h_i shall be taken equal to zero.

Whenever symbols given in this paragraph appear in this Chapter, they have the meaning as defined in this Regulation.

(2) If a void space or segregated ballast tank of a length less than l_c as defined in Regulation 22 of this Annex is located between wing oil tanks, O_c in formula (I) may be calculated on the basis of volume W_i being the actual volume of one such tank (where they are of equal capacity) or the smaller of the two tanks (if they differ in capacity), adjacent to such space, multiplied by S_i as defined below and taking for all other wing tanks involved in such a collision the value of the actual full volume.

$$S_i = 1 - \frac{l_i}{l_c}$$

where l_i = length in metres of void space or segregated ballast tank under consideration.

(3) (*a*) Credit shall only be given in respect of double bottom tanks which are either empty or carrying clean water when cargo is carried in the tanks above.

(*b*) Where the double bottom does not extend for the full length and width of the tank involved, the double bottom is considered non-existent and the volume of the tanks above the area of the bottom damage shall be included in formula (II) even if the tank is not considered breached because of the installation of such a partial double bottom.

(*c*) Suction wells may be neglected in the determination of the value h_i provided such wells are not excessive in area and extend below the tank for a minimum distance and in no case more than half the height of the double bottom. If the depth of such a well exceeds half the height of the double bottom, h_i shall be taken equal to the double bottom height minus the well height.

Piping serving such wells if installed within the double bottom shall be fitted with valves or other closing arrangements located at the point of connexion to the tank served to prevent oil outflow in the event of damage to the piping. Such piping shall be installed as high from the bottom shell as possible. These valves shall be kept closed at sea at any time when the tank contains oil cargo, except that they may be opened only for cargo transfer needed for the purpose of trimming of the ship.

(4) In the case where bottom damage simultaneously involves four centre tanks, the value of O_s may be calculated according to the formula

$$O_s = \tfrac{1}{4} (\Sigma Z_i W_i + \Sigma Z_i C_i) \qquad \text{(III)}$$

(5) An Administration may credit as reducing oil outflow in case of bottom damage, an installed cargo transfer system having an emergency high suction in each cargo oil tank, capable of transferring from a breached tank or tanks to segregated ballast tanks or to available cargo tankage if it can be assured that such tanks will have sufficient ullage. Credit for such a system would be governed by ability to transfer in two hours of operation oil equal to one half of the largest of the breached tanks involved and by availability of equivalent receiving capacity in ballast or cargo tanks. The credit shall be confined to permitting calculation of O_s according to formula (III). The pipes for such suctions shall be installed at least at a height not less than the vertical extent of the bottom damage v_s. The Administration shall supply the Organization with the information concerning the arrangements accepted by it, for circulation to other Parties to the Convention.

Regulation 24

Limitation of Size and Arrangement of Cargo Tanks

(1) Every new oil tanker shall comply with the provisions of this Regulation. Every existing oil tanker shall be required, within two years after the date of entry into force of the present Convention, to comply with the provisions of this Regulation if such a tanker falls into either of the following categories:

(*a*) A tanker, the delivery of which is after 1 January 1977; or

(*b*) A tanker to which both the following conditions apply:

(i) Delivery is not later than 1 January 1977; and

(ii) The building contract is placed after 1 January 1974, or in cases where no building contract has previously been placed, the keel is laid or the tanker is at a similar stage of construction after 30 June 1974.

(2) Cargo tanks of oil tankers shall be of such size and arrangements that the hypothetical outflow O_c or O_s calculated in accordance with the provisions of Regulation 23 of this Annex anywhere in the length of the ship does not exceed 30 000 cubic metres or $400\sqrt[3]{DW}$, whichever is the greater, but subject to a maximum of 40 000 cubic metres.

(3) The volume of any one wing cargo oil tank of an oil tanker shall not exceed seventy-five per cent of the limits of the hypothetical oil outflow referred to in paragraph (2) of this Regulation. The volume of any one centre cargo oil tank shall not exceed 50 000 cubic metres. However, in segregated ballast oil tankers as defined in Regulation 13 of this Annex, the permitted volume of a wing cargo oil tank situated between two segregated ballast tanks, each exceeding l_c in length, may be increased to the maximum limit of hypothetical oil outflow provided that the width of the wing tanks exceeds t_c.

(4) The length of each cargo tank shall not exceed 10 metres or one of the following values, whichever is the greater:

(*a*) Where no longitudinal bulkhead is provided—

$0.1L$

(*b*) Where a longitudinal bulkhead is provided at the centreline only—

$0.15L$

(*c*) Where two or more longitudinal bulkheads are provided—

(i) for wing tanks—

$0.2L$

(ii) for centre tanks:

(1) if $\frac{\overline{b_i}}{B}$ is equal to or greater than $\frac{\overline{l}}{5}$ —

$0.2L$

(2) if $\frac{\overline{b_i}}{B}$ is less than $\frac{\overline{l}}{5}$ —

—where no centreline longitudinal bulkhead is provided

$(0.5\frac{\overline{b_i}}{B} + 0.1)L$

—where a centreline longitudinal bulkhead is provided

$(0.25\frac{\overline{b_i}}{B} + 0.15)L$

(5) In order not to exceed the volume limits established by paragraphs (2), (3) and (4) of this Regulation and irrespective of the accepted type of cargo transfer system installed, when such system interconnects two or more cargo tanks, valves or other similar closing devices shall be provided for separating the tanks from each other. These valves or devices shall be closed when the tanker is at sea.

(6) Lines of piping which run through cargo tanks in a position less than t_c from the ship's side or less than v_c from the ship's bottom shall be fitted with valves or similar closing devices at the point at which they open into any cargo tank. These valves shall be kept closed at sea at any time when the tanks contain cargo oil, except that they may be opened only for cargo transfer needed for the purpose of trimming of the ship.

Regulation 25

Subdivision and Stability

(1) Every new oil tanker shall comply with the subdivision and damage stability criteria as specified in paragraph (3) of this Regulation, after the assumed side or bottom damage as specifed in paragraph (2) of this Regulation, for any operating draught reflecting actual partial or full load conditions consistent with trim and strength of the ship as well as specific gravities of the cargo. Such damage shall be applied to all conceivable locations along the length of the ship as follows:

(*a*) In tankers of more than 225 metres in length, anywhere in the ship's length;

(*b*) In tankers of more than 150 metres, but not exceeding 225 metres in length, anywhere in the ship's length except involving either after or forward bulkhead bounding the machinery space located aft. The machinery space shall be treated as a single floodable compartment;

(*c*) In tankers not exceeding 150 metres in length, anywhere in the ship's length between adjacent transverse bulkheads with the exception of the machinery space. For tankers of 100 metres or less in length where all requirements of paragraph (3) of this Regulation cannot be fulfilled without materially impairing the operational qualities of the ship, Administrations may allow relaxations from these requirements.

Ballast conditions where the tanker is not carrying oil in cargo tanks exluding any oil residues, shall not be considered.

(2) The following provisions regarding the extent and the character of the assumed damage shall apply:

(*a*) The extent of side or bottom damage shall be as specified in Regulation 22 of this Annex, except that the longitudinal extent of bottom damage within 0.3L from the forward perpendicular shall be the same as for side damage, as specified in Regulation 22 (1) (*a*) (i) of this Annex. If any damage of lesser extent results in a more severe condition such damage shall be assumed.

(*b*) Where the damage involving transverse bulkheads is envisaged as specified in sub-paragraphs (1) (*a*) and (*b*) of this Regulation, transverse watertight bulkheads shall be spaced at least at a distance equal to the longitudinal extent of assumed damage specified in sub-paragraph (*a*) of this paragraph in order to be considered effective. Where transverse bulkheads are spaced at a lesser distance, one or more of these bulkheads within such extent of damage shall be assumed as non-existent for the purpose of determining flooded compartments.

(*c*) Where the damage between adjacent transverse watertight bulkheads is envisaged as specified in sub-paragraph (1) (*c*) of this Regulation, no main transverse bulkhead or a transverse bulkhead bounding side tanks or double bottom tanks shall be assumed damaged, unless—

(i) the spacing of the adjacent bulkheads is less than the longitudinal extent of assumed damage specifed in sub-paragraph (*a*) of this paragraph; or

(ii) there is a step or a recess in a transverse bulkhead of more than 3.05 metres in length, located within the extent of penetration of assumed damage. The step formed by the after peak bulkhead and after peak tank top shall not be regarded as a step for the purpose of this Regulation.

(*d*) If pipes, ducts or tunnels are situated within the assumed extent of damage, arrangements shall be made so that progressive flooding cannot thereby extend to compartments other than those assumed to be floodable for each case of damage.

(3) Oil tankers shall be regarded as complying with the damage stability criteria if the following requirements are met:

(*a*) The final waterline, taking into account sinkage, heel and trim, shall be below the lower edge of any opening through which progressive flooding may take place. Such openings shall include air pipes and those which are closed by means of weathertight doors or hatch covers and may exclude those openings closed by means of watertight manhole covers and flush scuttles, small watertight cargo tank hatch covers which maintain the high integrity of the deck, remotely operated watertight sliding doors, and side scuttles of the non-opening type.

(*b*) In the final stage of flooding, the angle of heel due to unsymmetrical flooding shall not exceed 25 degrees, provided that this angle may be increased up to 30 degrees if no deck edge immersion occurs.

(*c*) The stability in the final stage of flooding shall be investigated and may be regarded as sufficient if the righting lever curve has at least a range of 20 degrees beyond the position of equilibrium in association with a maximum residual righting lever of a least 0.1 metre. The Administration shall give consideration to the potential hazard presented by protected or unprotected openings which may become temporarily immersed within the range of residual stability.

(*d*) The Administration shall be satisfied that the stability is sufficient during intermediate stages of flooding.

(4) The requirements of paragraph (1) of this Regulation shall be confirmed by calculations which take into consideration the design characteristics of the ship, the arrangements, configuration and contents of the damaged compartments; and the distribution, specific gravities and the free surface effect of liquids. The calculations shall be based on the following:

(*a*) Account shall be taken of any empty or partially filled tank, the specific gravity of cargoes carried, as well an any outflow of liquids from damaged compartments.

(*b*) The permeabilities are assumed as follows:

Spaces	*Permeability*
Appropriated to stores	0.60
Occupied by accommodation	0.95
Occupied by machinery	0.85
Voids	0.95
Intended for consumable liquids	0 or 0.95*
Intended for other liquids	0 to 0.95†

* Whichever results in the more severe requirements.

† The permeability of partially filled compartments shall be consistent with the amount of liquid carried.

(*c*) The buoyancy of any superstructure directly above the side damage shall be disregarded. The unflooded parts of superstructures beyond the extent of damage, however, may be taken into consideration provided that they are separated from the damaged space by watertight bulkheads and the requirements of sub-paragraph (3) (*a*) of this Regulation in respect of these intact spaces are complied with. Hinged watertight doors may be acceptable in watertight bulkheads in the superstructure.

(*d*) The free surface effect shall be calculated at an angle of heel of 5 degrees for each individual compartment. The Administration may require or allow the free surface corrections to be calculated at an angle of heel greater than 5 degrees for partially filled tanks.

(*e*) In calculating the effect of free surfaces of consumable liquids it shall be assumed that, for each type of liquid at least one transverse pair or a single centreline tank has a free surface and the tank or combination of tanks to be taken into account shall be those where the effect of free surfaces is the greatest.

(5) The Master of every oil tanker and the person in charge of a non-self-propelled oil tanker to which this Annex applies shall be supplied in an approved form with—

(*a*) information relative to loading and distribution of cargo necessary to ensure compliance with the provisions of this Regulation; and

(*b*) data on the ability of the ship to comply with damage stability criteria as determined by this Regulation, including the effect of relaxations that may have been allowed under sub-paragraph (1) (*c*) of this Regulation.

Appendix I

LIST OF OILS*

Asphalt solutions
Blending Stocks
Roofers Flux
Straight Run Residue

Oils
Clarified
Crude Oil
Mixtures containing crude oil
Diesel Oil
Fuel Oil No. 4
Fuel Oil No. 5
Fuel Oil No. 6
Residual Fuel Oil
Road Oil
Transformer Oil
Aromatic Oil (excluding vegetable oil)
Lubricating Oils and Blending Stocks
Mineral Oil
Motor Oil
Penetrating Oil
Spindle Oil
Turbine Oil

Distillates
Straight Run
Flashed Feed Stocks

Gas Oil
Cracked

Gasoline Blending Stocks
Alkylates—fuel
Reformates
Polymer—fuel

Gasolines
Casinghead (natural)
Automotive
Aviation
Straight Run
Fuel Oil No. 1 (Kerosene)
Fuel Oil No. 1-D
Fuel Oil No. 2
Fuel Oil No. 2-D

Jet Fuels
JP-1 (Kerosene)
JP-3
JP-4
JP-5 (Kerosene, Heavy)
Turbo Fuel
Kerosene
Mineral Spirit

Naphtha
Solvent
Petroleum
Heartcut Distillate Oil

* The list of oils shall not necessarily be considered as comprehensive.

Appendix II

FORM OF CERTIFICATE

INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE (1973)

Issued under the Provisions of the International Convention for the Prevention of Pollution from Ships, 1973, under the Authority of the Government of

.....

(full designation of the country)

by .....

(full designation of the competent person or organization authorized under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973)

Name of Ship	*Distinctive Number or Letter*	*Port of Registry*	*Gross Tonnage*

Type of ship:

Oil tanker, including combination carrier*

Asphalt carrier*

Ship other than an oil tanker with cargo tanks coming under Regulation 2 (2) of Annex I of the Convention*

Ship other than any of the above*

New/existing ship*

* Delete as appropriate.

Date of building or major conversion contract .....

Date on which keel was laid or ship was at a similar stage of construction or on which major conversion was commenced .....

Date of delivery or completion of major conversion .....

PART A ALL SHIPS

The ship is equipped with:

For ships of 400 tons gross tonnage and above—

(a) oily-water separating equipment* (capable of producing the effluent with oil content not exceeding 100 parts per million); or

(b) an oil filtering system* (capable of producing the effluent with oil content not exceeding 100 parts per million);

For ships of 10 000 tons gross tonnage and above—

(c) an oil discharge monitoring and control system* (additional to (*a*) or (*b*) above); or

(d) oily-water separating equipment and an oil filtering system* (capable of producing the effluent with oil content not exceeding 15 parts per million) in lieu of (*a*) or (*b*) above.

Particulars of requirements from which exemption is granted under Regulation 2 (2) and 2 (4) (*a*) of Annex I of the Convention:

.....

.....

Remarks:

PART B OIL TANKER[1] [2]

Deadweight .....metric tons. Length of ship .....metres

It is certified that this ship is—

(*a*) required to be constructed according to and complies with[3]

(*b*) not required to be constructed according to[3]

(*c*) not required to be constructed according to, but complies with[3]

the requirements of Regulation 24 of Annex I of the Convention.

[1] This Part should be completed for oil tankers including combination carriers and asphalt carriers, and those entries which are applicable should be completed for ships other than oil tankers which are constructed and utilized to carry oil in bulk of an aggregate capacity of 200 cubic metres or above.

[2] Part B need not be reproduced on a Certificate issued to any ship other than those referred to in footnote 1.

[3] Delete as appropriate.

The capacity of segregated ballast tanks is.....cubic metres and complies with the requirements of Regulation 13 of Annex I of the Convention.

The segregated ballast is distributed as follows:

Tank	*Quantity*	*Tank*	*Quantity*

*

* *End of Part B.*

THIS IS TO CERTIFY:

That the ship has been surveyed in accordance with Regulation 4 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, concerning the prevention of pollution by oil; and

That the survey shows that the structure, equipment, fittings, arrangement and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex I of the Convention.

This Certificate is valid until .....

subject to intermediate survey(s) at intervals of .....

Issued at .....

(place of issue of Certificate)

.....19 ... .

(Signature of duly authorized official issuing the Certificate)

(Seal or stamp of the issuing Authority, as appropriate)

Endorsement for existing ships[4]

This is to certify that this ship has been so equipped as to comply with the requirements of the International Convention for the Prevention of Pollution from Ships, 1973 as relating to existing ships three years from the date of entry into force of the Convention.

Signed .....

(Signature of duly authorized official)

Place of endorsement .....

Date of endorsement .....

(Seal or stamp of the Authority, as appropriate)

Intermediate survey

This is to certify that at an intermediate survey required by Regulation 4 (1) (*c*) of Annex I of the Convention, this ship and the condition thereof are found to comply with the relevant provisions of the Convention.

Signed .....

(Signature of duly authorized official)

Place.....

Date .....

(Seal or stamp of the Authority, as appropriate)

Signed .....

(Signature of duly authorized official)

Place.....

Date .....

(Seal or stamp of the Authority, as appropriate)

Under the provisions of Regulation 8 (2) and (4) of Annex I of the Convention the validity of this Certificate is extended until

.....

Signed .....

(Signature of duly authorized official)

Place .....

Date .....

(Seal or stamp of the Authority, as appropriate)

[4] This entry need not be reproduced on a Certificate other than the first Certificate issued to any ship.

Appendix III

FORM OF OIL RECORD BOOK

OIL RECORD BOOK

I—FOR OIL TANKERS[1]

Name of ship .....

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

Voyage from .....(date) ..... to .....(date) .....

(*a*) Loading of oil cargo

1. Date and place of loading			
2. Types of oil loaded			
3. Identity of tank(s) loaded			
4. Closing of applicable cargo tank valves and applicable line cut-off valves on completion of loading[2]			

The undersigned certifies that in addition to the above, all sea valves, overboard discharge valves, cargo tank and pipeline connections and inter-connections, were secured on completion of loading oil cargo.

Date of entry ..... Officer in charge .....

Master .....

(*b*) Internal transfer of oil cargo during voyage

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

The undersigned certifies that in addition to the above, all sea valves, overboard discharge valves, cargo tank and pipeline connections and inter-connections, were secured on completion of internal transfer of oil cargo.

Date of entry ..... Officer in charge .....

Master .....

[1] This part should be completed for oil tankers including combination carriers and asphalt carriers, and those entries which are applicable shall be completed for ships other than oil tankers which are constructed and utilized to carry oil in bulk of an aggregate capacity of 200 cubic metres or above. This part need not be reproduced on an Oil Record Book issued to any ship other than those referred to above.

[2] Applicable valves and similar devices are those referred to in Regulations 20 (2) (*a*) (iii), 23 and 24 of Annex I of the Convention.

(*c*) Unloading of oil cargo

8. Date and place of unloading			
9. Identity of tank(s) unloaded			
10. Was(were) tank(s) emptied?			
11. Opening of applicable cargo tank valves and applicable line cut-off valves prior to cargo unloading[2]			
12. Closing of applicable cargo tank valves and applicable line cut-off valves on completion of unloading[2]			

The undersigned certifies that in addition to the above, all sea valves, overboard discharge valves, cargo tank and pipeline connections and inter-connections, were secured on completion of unloading of oil cargo.

Date of entry ..... Officer in charge .....

Master .....

(*d*) Ballasting of cargo tanks

13. Identity of tank(s) ballasted			
14. Date and position of ship at start of ballasting			
15. If valves connecting cargo lines and segregated ballast lines were used give time, date and position of ship when valves were (*a*) opened, and (*b*) closed			

The undersigned certifies that in addition to the above all sea valves, overboard discharge valves, cargo tank and pipeline connections and inter-connections, were secured on the completion of ballasting.

Date of entry ..... Officer in charge .....

Master .....

(*e*) Cleaning of cargo tanks

16. Identity of tank(s) cleaned			
17. Date and duration of cleaning			
18. Methods of cleaning[3]			

Date of entry ..... Officer in charge .....

Master .....

[2] Applicable valves and similar devices are those referred to in Regulations 20 (2) (*a*) (iii), 23 and 24 of Annex I of the Convention.

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

(*f*) Discharge of dirty ballast

19. Identity of tank(s)			
20. Date and position of ship at start of discharge to sea			
21. Date and position of ship at finish of discharge to sea			
22. Ship's speed(s) during discharge			
23. Quantity discharged to sea			
24. Quantity of polluted water transferred to slop tank(s) (identify slop tank(s))			
25. Date and port of discharge into shore reception facilities (if applicable)			
26. Was any part of the discharge conducted during darkness, if so, for how long?			
27. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?			
28. Was any oil observed on the surface of the water in the locality of the discharge?			

Date of entry..... Officer in charge.....

Master .....

(*g*) Discharge of water from slop tanks

29. Identity of slop tank(s)			
30. Time of settling from last entry of residues, or			
31. Time of settling from last discharge			
32. Date, time and position of ship at start of discharge			
33. Sounding of total contents at start of discharge			
34. Sounding of oil/water interface at start of discharge			
35. Bulk quantity discharged and rate of discharge			
36. Final quantity discharged and rate of discharge			
37. Date, time and position of ship at end of discharge			
38. Ship's speed(s) during discharge			
39. Sounding of oil/water interface at end of discharge			
40. Was any part of the discharge conducted during darkness, if so, for how long?			
41. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?			
42. Was any oil observed on the surface of the water in the locality of the discharge?			

Date of entry..... Officer in charge.....

Master.....

(*h*) Disposal of residues

43. Identity of tank(s)			
44. Quantity disposed from each tank			
45. Method of disposal of residue: (*a*) Reception facilities (*b*) Mixed with cargo (*c*) Transferred to another (other) tank(s) (identify tank(s)) (*d*) Other method (state which)			
46. Date and port of disposal of residue			

Date of entry..... Officer in charge.....

Master .....

(*i*) Discharge of clean ballast contained in cargo tanks

47. Date and position of ship at commencement of discharge of clean ballast			
48. Identity of tank(s) discharged			
49. Was(were) the tank(s) empty on completion?			
50. Position of vessel on completion if different from 47			
51. Was any part of the discharge conducted during darkness, if so, for how long?			
52. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?			
53. Was any oil observed on the surface of the water in the locality of the discharge?			

Date of entry..... Officer in charge.....

Master .....

(*j*) Discharge overboard of bilge water containing oil which has accumulated in machinery spaces whilst in port[4]

54. Port			
55. Duration of stay			
56. Quantity disposed			
57. Date and place of disposal			
58. Method of disposal (state whether a separator was used)			

Date of entry ..... Officer in charge .....

Master .....

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

59. Date and time of occurrence			
60. Place or position of ship at time of occurrence			
61. Approximate quantity and type of oil			
62. Circumstances of discharge or escape, the reasons therefor and general remarks			

Date of entry ..... Officer in charge .....

Master .....

[4] 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".

(*l*) Has the oil monitoring and control system been out of operation at any time when discharging overboard? If so, give time and date of failure and time and date of restoration and confirm that this was due to equipment failure and state reason if known .....

.....

.....

Date of entry ..... Officer in charge .....

Master .....

(*m*) Additional operational procedures and general remarks .....

.....

.....

.....

For oil tankers of less than 150 tons gross tonnage operating in accordance with Regulation 15 (4) of Annex I of the Convention, an appropriate oil record book should be developed by the Administration.

For asphalt carriers, a separate oil record book may be developed by the Administration utilizing sections (*a*), (*b*), (*c*), (*e*), (*h*), (*j*), (*k*) and (*m*) of this form of oil record book.

II—FOR ALL SHIPS OTHER THAN OIL TANKERS

Name of ship .....

Operations from ..... (date), to ..... (date)

(*a*) Ballasting or cleaning of oil 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			

Date of entry ..... Officer in charge .....

Master .....

(*b*) Discharge of dirty ballast or cleaning water from tanks referred to under section (*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 to reception facility or through installed equipment)			
10. Quantity discharged			

Date of entry ..... Officer in charge .....

Master .....

(*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) (*d*) Other method (state which)			
13. Date and port of disposal of residue			

Date of entry ..... Officer in charge .....

Master .....

(*d*) Discharge overboard of bilge water containing oil which has accumulated in machinery spaces whilst in port[5]

14. Port			
15. Duration of stay			
16. Quantity discharged			
17. Date and place of discharge			
18. Method of discharge: (*a*) Through oily-water separating equipment (*b*) Through oil filtering system (*c*) Through oily-water separating equipment and an oil filtering system (*d*) To reception facilities			

Date of entry ..... Officer in charge .....

Master .....

[5] 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".

(*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, the reasons therefor and general remarks			

Date of entry ..... Officer in charge .....

Master .....

(*f*) Has the required oil monitoring and control system been out of operation at any time when discharging overboard? If so, state time and date of failure and time and date of restoration, and confirm that this was due to equipment failure, and state reason if known.

Date of entry ..... Officer in charge .....

Master .....

(*g*) New ships of 4000 tons gross tonnage and above: has dirty ballast been carried in oil fuel tanks?

Yes/No .....

If so, state which tanks were so ballasted and method of discharge of the dirty ballast .....

.....

.....

Date of entry ..... Officer in charge .....

Master .....

(*h*) Additional operational procedures and general remarks .....

.....

.....

.....

Date of entry ..... Officer in charge .....

Master .....

Annex II

REGULATIONS FOR THE CONTROL OF POLLUTION BY NOXIOUS LIQUID SUBSTANCES IN BULK

Regulation 1

Definitions

For the purposes of this Annex—

(1) "Chemical tanker" means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk and includes an "oil tanker" as defined in Annex I of the Present Convention when carrying a cargo or part cargo of noxious liquid substances in bulk.

(2) "Clean ballast" means ballast carried in a tank which, since it was last used to carry a cargo containing a substance in Category A, B, C or D has been thoroughly cleaned and the residues resulting therefrom have been discharged and the tank emptied in accordance with the appropriate requirements of this Annex.

(3) "Segregated ballast" means ballast water introduced into a tank permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious liquid substances as variously defined in the Annexes of the present Convention, and which is completely separated from the cargo and oil fuel system.

(4) "Nearest land" is as defined in Regulation 1 (9) of Annex I of the present Convention.

(5) "Liquid substances" are those having a vapour pressure not exceeding 2.8 kp/cm^2 at a temperature of 37.8°C.

(6) "Noxious liquid substance" means any substance designated in Appendix II to this Annex or provisionally assessed under the provisions of Regulation 3 (4) as falling into Category A, B, C or D.

(7) "Special area" means a sea area where for recognized technical reasons in relation to its oceanographic and ecological condition and to its peculiar transportation traffic the adoption of special mandatory methods for the prevention of sea pollution by noxious liquid substances is required.

Special areas shall be:

(*a*) The Baltic Sea Area; and

(*b*) The Black Sea Area.

(8) "Baltic Sea Area" is as defined in Regulation 10 (1) (*b*) of Annex I of the present Convention.

(9) "Black Sea Area" is as defined in Regulation 10 (1) (*c*) of Annex I of the present Convention.

Regulation 2

Application

(1) Unless expressly provided otherwise the provisions of this Annex shall apply to all ships carrying noxious liquid substances in bulk.

(2) Where a cargo subject to the provisions of Annex I of the present Convention is carried in a cargo space of a chemical tanker, the appropriate requirements of Annex I of the present Convention shall also apply.

(3) Regulation 13 of this Annex shall apply only to ships carrying substances which are categorized for discharge control purposes in Category A, B or C.

Regulation 3

Categorization and Listing of Noxious Liquid Substances

(1) For the purpose of the Regulations of this Annex, except Regulation 13, noxious liquid substances shall be divided into four categories as follows:

(*a*) Category A—Noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations would present a major hazard to either marine resources or human health or cause serious harm to amenities or other legitimate uses of the sea and therefore justify the application of stringent anti-pollution measures.

(*b*) Category B—Noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations would present a hazard to either marine resources or human health or cause harm to amenities or other legitimate uses of the sea and therefore justify the application of special anti-pollution measures.

(*c*) Category C—Noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations would present a minor hazard to either marine resources or human health or cause minor harm to amenities or other legitimate uses of the sea and therefore require special operational conditions.

(*d*) Category D—Noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations would present a recognizable hazard to either marine resources or human health or cause minimal harm to amenities or other legitimate uses of the sea and therefore require some attention in operational conditions.

(2) Guidelines for use in the categorization of noxious liquid substances are given in Appendix I to this Annex.

(3) The list of noxious liquid substances carried in bulk and presently categorized which are subject to the provisions of this Annex is set out in Appendix II to this Annex.

(4) Where it is proposed to carry a liquid substance in bulk which has not been categorized under paragraph (1) of this Regulation or evaluated as referred to in Regulation 4 (1) of this Annex, the Governments of Parties to the Convention involved in the proposed operation shall establish and agree on a provisional assessment for the proposed operation on the basis of the guidelines referred to in paragraph (2) of this Regulation. Until full agreement between the Governments involved has been reached, the substance shall be carried under the most severe conditions proposed. As soon as possible, but not later than ninety days after its first carriage, the Administration concerned shall notify the Organization and provide details of the substance and the provisional assessment for prompt circulation to all Parties for their information and consideration. The Government of each Party shall have a period of ninety days in which to forward its comments to the Organization, with a view to the assessment of the substance.

Regulation 4

Other Liquid Substances

(1) The substances listed in Appendix III to this Annex have been evaluated and found to fall outside the Categories A, B, C and D, as defined in Regulation 3 (1) of this Annex because they are presently considered to present no harm to human health, marine resources, amenities or other legitimate uses of the sea, when discharged into the sea from tank cleaning or deballasting operations.

(2) The discharge of bilge or ballast water or other residues or mixtures containing only substances listed in Appendix III to this Annex shall not be subject to any requirement of this Annex.

(3) The discharge into the sea of clean ballast or segregated ballast shall not be subject to any requirement of this Annex.

Regulation 5

Discharge of Noxious Liquid Substances

Categories A, B and C Substances outside Special Areas and Category D Substances in all Areas

Subject to the provisions of Regulation 6 of this Annex,

(1) The discharge into the sea of substances in Category A as defined in Regulation 3 (1) (*a*) of this Annex or of those provisionally assessed as such or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited. If tanks containing such substances or mixtures are to be washed, the resulting residues shall be discharged to a reception facility until the concentration of the substance in the effluent to such facility is at or below the residual concentration prescribed for that substance in column III of Appendix II to this Annex and until the tank is empty. Provided that the residue then remaining in the tank is subsequently diluted by the addition of a volume of water of not less than 5 per cent of the total volume of the tank, it may be discharged into the sea when all the following conditions are also satisfied:

(*a*) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(*b*) The discharge is made below the waterline, taking into account the location of the seawater intakes; and

(*c*) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(2) The discharge into the sea of substances in Category B as defined in Regulation 3 (1) (*b*) of this Annex or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:

(*a*) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(*b*) The procedures and arrangements for discharge are approved by the Administration. Such procedures and arrangements shall be based upon standards developed by the Organization and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 1 part per million;

(*c*) The maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in sub-paragraph (*b*) of this paragraph, which shall in no case exceed the greater of 1 cubic metre or 1/3000 of the tank capacity in cubic metres;

(*d*) The discharge is made below the waterline, taking into account the location of the seawater intakes; and

(*e*) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(3) The discharge into the sea of substances in Category C as defined in Regulation 3 (1) (*c*) of this Annex or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:

(*a*) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(*b*) The procedures and arrangements for discharge are approved by the Administration. Such procedures and arrangements shall be based upon standards developed by the Organization and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 10 parts per million;

(*c*) The maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in sub-paragraph (*b*) of this paragraph, which shall in no case exceed the greater of 3 cubic metres or 1/1000 of the tank capacity in cubic metres;

(*d*) The discharge is made below the waterline, taking into account the location of the seawater intakes; and

(*e*) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(4) The discharge into the sea of substances in Category D as defined in Regulation 3 (1) (*d*) of this Annex, or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:

(*a*) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(*b*) Such mixtures are of a concentration not greater than one part of the substance in ten parts of water; and

(*c*) The discharge is made at a distance of not less than 12 nautical miles from the nearest land.

(5) Ventilation procedures approved by the Administration may be used to remove cargo residues from a tank. Such procedures shall be based upon standards developed by the Organization. If subsequent washing of the tank is necessary, the discharge into the sea of the resulting tank washings shall be made in accordance with paragraph (1), (2), (3) or (4) of this Regulation, whichever is applicable.

(6) The discharge into the sea of substances which have not been categorized, provisionally assessed, or evaluated as referred to in Regulation 4 (1) of this Annex, or of ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited.

Categories A, B and C Substances within Special Areas

Subject to the provisions of Regulation 6 of this Annex,

(7) The discharge into the sea of substances in Category A as defined in Regulation 3 (1) (*a*) of this Annex, or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited. If tanks containing such substances or mixtures are to be washed the resulting residues shall be discharged to a reception facility which the States bordering the special area shall provide in accordance with Regulation 7 of this Annex, until the concentration of the substance in the effluent to such facility is at or below the residual concentration prescribed for that substance in column IV of Appendix II to this Annex and until the tank is empty. Provided that the residue then remaining in the tank is subsequently diluted by the addition of a volume of water of not less than 5 per cent of the total volume of the tank, it may be discharged into the sea when all the following conditions are also satisfied:

(*a*) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(*b*) The discharge is made below the waterline, taking into account the location of the seawater intakes; and

(*c*) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(8) The discharge into the sea of substances in Category B as defined in Regulation 3 (1) (*b*) of this Annex or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:

(*a*) The tank has been washed after unloading with a volume of water of not less than 0.5 per cent of the total volume of the tank, and the resulting residues have been discharged to a reception facility until the tank is empty;

(*b*) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(*c*) The procedures and arrangements for discharge and washings are approved by the Administration. Such procedures and arrangements shall be based upon standards developed by the Organization and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 1 part per million;

(*d*) The discharge is made below the waterline, taking into account the location of the seawater intakes; and

(*e*) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(9) The discharge into the sea of substances in Category C as defined in Regulation 3 (1) (*c*) of this Annex or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:

(*a*) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(*b*) The procedures and arrangements for discharge are approved by the Administration. Such procedures and arrangements shall be based upon standards developed by the Organization and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 1 part per million;

(*c*) The maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in sub-paragraph (*b*) of this paragraph which shall in no case exceed the greater of 1 cubic metre or 1/3000 of the tank capacity in cubic metres;

(*d*) The discharge is made below the waterline, taking into account the location of the seawater intakes; and

(*e*) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(10) Ventilation procedures approved by the Administration may be used to remove cargo residues from a tank. Such procedures shall be based upon standards developed by the Organization. If subsequent washing of the tank is necessary, the discharge into the sea of the resulting tank washings shall be made in accordance with paragraph (7), (8) or (9) of this Regulation, whichever is applicable.

(11) The discharge into the sea of substances which have not been categorized, provisionally assessed or evaluated as referred to in Regulation 4 (1) of this Annex, or of ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited.

(12) Nothing in this Regulation shall prohibit a ship from retaining on board the residues from a Category B or C cargo and discharging such residues into the sea outside a special area in accordance with paragraph (2) or (3) of this Regulation, respectively.

(13) (*a*) The Governments of Parties to the Convention, the coastlines of which border on any given special area, shall collectively agree and establish a date by which time the requirement of Regulation 7 (1) of this Annex will be fulfilled and from which the requirements of paragraphs (7), (8), (9) and (10) of this Regulation in respect of that area shall take effect and notify the Organization of the date so established at least six months in advance of that date. The Organization shall then promptly notify all Parties of that date.

(*b*) If the date of entry into force of the present Convention is earlier than the date established in accordance with sub-paragraph (*a*) of this paragraph, the requirements of paragraphs (1), (2) and (3) of this Regulation shall apply during the interim period.

Regulation 6

Exceptions

Regulation 5 of this Annex shall not apply to—

(*a*) the discharge into the sea of noxious liquid substances or mixtures containing such substances necessary for the purpose of securing the safety of a ship or saving life at sea; or

(*b*) the discharge into the sea of noxious liquid substances or mixtures containing such substances resulting from damage to a ship or its equipment—

(i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimizing the discharge; and

(ii) except if the owner or the Master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

(*c*) the discharge into the sea of noxious liquid substances or mixtures containing such substances, approved by the Administration, when being used for the purpose of combating specific pollution incidents in order to minimize the damage from pollution. Any such discharge shall be subject to the approval of any Government in whose jurisdiction it is contemplated the discharge will occur.

Regulation 7

Reception Facilities

(1) The Government of each Party to the Convention undertakes to ensure the provision of reception facilities according to the needs of ships using its ports, terminals or repair ports as follows:

(*a*) Cargo loading and unloading ports and terminals shall have facilities adequate for reception without undue delay to ships of such residues and mixtures containing noxious liquid substances as would remain for disposal from ships carrying them as a consequence of the application of this Annex; and

(*b*) Ship repair ports undertaking repairs to chemical tankers shall have facilities adequate for the reception of residues and mixtures containing noxious liquid substances.

(2) The Government of each Party shall determine the types of facilities provided for the purpose of paragraph (1) of this Regulation at each cargo loading and unloading port, terminal and ship repair port in its territories and notify the Organization thereof.

(3) Each Party shall notify the Organization, for transmission to the Parties concerned, of any case where facilities required under paragraph (1) of this Regulation are alleged to be inadequate.

Regulation 8

Measures of Control

(1) The Government of each Party to the Convention shall appoint or authorize surveyors for the purpose of implementing this Regulation.

Category A Substances in all Areas

(2) (*a*) If a tank is partially unloaded or unloaded but not cleaned, an appropriate entry shall be made in the Cargo Record Book.

(*b*) Until that tank is cleaned every subsequent pumping or transfer operation carried out in connexion with that tank shall also be entered in the Cargo Record Book.

(3) If the tank is to be washed—

(*a*) the effluent from the tank washing operation shall be discharged from the ship to a reception facility at least until the concentration of the substance in the discharge, as indicated by analyses of samples of the effluent taken by the surveyor, has fallen to the residual concentration specified for that substance in Appendix II to this Annex. When the required residual concentration has been achieved, remaining tank washings shall continue to be discharged to the reception facility until the tank is empty. Appropriate entries of these operations shall be made in the Cargo Record Book and certified by the surveyor; and

(*b*) after diluting the residue then remaining in the tank with at least 5 per cent of the tank capacity of water, this mixture may be discharged into the sea in accordance with the provisions of sub-paragraphs (1) (*a*), (*b*) and (*c*) or 7 (*a*), (*b*) and (*c*), whichever is applicable, of Regulation 5 of this Annex. Appropriate entries of these operations shall be made in the Cargo Record Book.

(4) Where the Government of the receiving Party is satisfied that it is impracticable to measure the concentration of the substance in the effluent without causing undue delay to the ship, that Party may accept an alternative procedure as being equivalent to sub-paragraph (3) (*a*) provided that—

(*a*) a precleaning procedure for that tank and that substance, based on standards developed by the Organization, is approved by the Administration and that Party is satisfied that such procedure will fulfil the requirements of paragraph (1) or (7), whichever is applicable, of Regulation 5 of this Annex with respect to the attainment of the prescribed residual concentrations;

(*b*) a surveyor duly authorized by that Party shall certify in the Cargo Record Book that—

(i) the tank, its pump and piping system have been emptied, and that the quantity of cargo remaining in the tank is at or below the quantity on which the approved precleaning procedure referred to in sub-paragraph (ii) of this paragraph has been based;

(ii) precleaning has been carried out in accordance with the precleaning procedure approved by the Administration for that tank and that substance; and

(iii) the tank washings resulting from such precleaning have been discharged to a reception facility and the tank is empty;

(*c*) the discharge into the sea of any remaining residues shall be in accordance with the provisions of paragraph (3) (*b*) of this Regulation and an appropriate entry is made in the Cargo Record Book.

Category B Substances outside Special Areas and Category C Substances in all Areas

(5) Subject to such surveillance and approval by the authorized or appointed surveyor as may be deemed necessary by the Government of the Party, the Master of a ship shall, with respect to a Category B substance outside special areas or a Category C substance in all areas, ensure compliance with the following:

(*a*) If a tank is partially unloaded or unloaded but not cleaned, an appropriate entry shall be made in the Cargo Record Book.

(*b*) If the tank is to be cleaned at sea—

(i) the cargo piping system serving that tank shall be drained and an appropriate entry made in the Cargo Record Book;

(ii) the quantity of substance remaining in the tank shall not exceed the maximum quantity which may be discharged into the sea for that substance under Regulation 5 (2) (*c*) of this Annex outside special areas in the case of Category B substances, or under Regulations 5 (3) (*c*) and 5 (9) (*c*) outside and within special areas respectively in the case of Category C substances. An appropriate entry shall be made in the Cargo Record Book;

(iii) where it is intended to discharge the quantity of substance remaining into the sea the approved procedures shall be complied with, and the necessary dilution of the substance satisfactory for such a discharge shall be achieved. An appropriate entry shall be made in the Cargo Record Book; or

(iv) where the tank washings are not discharged into the sea, if any internal transfer of tank washings takes place from that tank an appropriate entry shall be made in the Cargo Record Book; and

(v) any subsequent discharge into the sea of such tank washings shall be made in accordance with the requirements of Regulation 5 of this Annex for the appropriate area and Category of substance involved.

(*c*) If the tank is to be cleaned in port—

(i) the tank washings shall be discharged to a reception facility and an appropriate entry shall be made in the Cargo Record Book; or

(ii) the tank washings shall be retained on board the ship and an appropriate entry shall be made in the Cargo Record Book indicating the location and disposition of the tank washings.

(*d*) If after unloading a Category C substance within a special area, any residues or tank washings are to be retained on board until the ship is outside the special area, the Master shall so indicate by an appropriate entry in the Cargo Record Book and in this case the procedures set out in Regulation 5 (3) of this Annex shall be applicable.

Category B Substances within Special Areas

(6) Subject to such surveillance and approval by the authorized or appointed surveyor as may be deemed necessary by the Government of the Party, the Master of a ship shall, with respect to a Category B substance within a special area, ensure compliance with the following:

(*a*) If a tank is partially unloaded or unloaded but not cleaned, an appropriate entry shall be made in the Cargo Record Book.

(*b*) Until that tank is cleaned every subsequent pumping or transfer operation carried out in connexion with that tank shall also be entered in the Cargo Record Book.

(*c*) If the tank is to be washed, the effluent from the tank washing operation, which shall contain a volume of water not less than 0.5 per cent of the total volume of the tank, shall be discharged from the ship to a reception facility until the tank, its pump and piping system are empty. An appropriate entry shall be made in the Cargo Record Book.

(*d*) If the tank is to be further cleaned and emptied at sea, the Master shall—

(i) ensure that the approved procedures referred to in Regulation 5 (8) (*c*) of this Annex are complied with and that the appropriate entries are made in the Cargo Record Book; and

(ii) ensure that any discharge into the sea is made in accordance with the requirements of Regulation 5 (8) of this Annex and an appropriate entry is made in the Cargo Record Book.

(*e*) If after unloading a Category B substance within a special area, any residues or tank washings are to be retained on board until the ship is outside the special area, the Master shall so indicate by an appropriate entry in the Cargo Record Book and in this case the procedures set out in Regulation 5 (2) of this Annex shall be applicable.

Category D Substances in all Areas

(7) The Master of a ship shall, with respect to a Category D substance, ensure compliance with the following:

(*a*) If a tank is partially unloaded or unloaded but not cleaned, an appropriate entry shall be made in the Cargo Record Book.

(*b*) If the tank is to be cleaned at sea—

(i) the cargo piping system serving that tank shall be drained and an appropriate entry made in the Cargo Record Book;

(ii) where it is intended to discharge the quantity of substance remaining into the sea, the necessary dilution of the substance satisfactory for such a discharge shall be achieved. An appropriate entry shall be made in the Cargo Record Book; or

(iii) where the tank washings are not discharged into the sea, if any internal transfer of tank washings takes place from that tank an appropriate entry shall be made in the Cargo Record Book; and

(iv) any subsequent discharge into the sea of such tank washings shall be made in accordance with the requirements of Regulation 5 (4) of this Annex.

(*c*) If the tank is to be cleaned in port—

(i) the tank washings shall be discharged to a reception facility and an appropriate entry shall be made in the Cargo Record Book; or

(ii) the tank washings shall be retained on board the ship and an appropriate entry shall be made in the Cargo Record Book indicating the location and disposition of the tank washings.

Discharge from a Slop Tank

(8) Any residues retained on board in a slop tank, including those from pump room bilges, which contain a Category A substance, or within a special area either a Category A or Category B substance, shall be discharged to a reception facility in accordance with the provisions of Regulation 5 (1), (7) or (8) of this Annex, whichever is applicable. An appropriate entry shall be made in the Cargo Record Book.

(9) Any residues retained on board in a slop tank, including those from pump room bilges, which contain a quantity of a Category B substance outside a special area or a Category C substance in all areas in excess of the aggregate of the maximum quantities specified in Regulation 5 (2) (*c*), (3) (*c*) or (9) (*c*) of this Annex, whichever is applicable, shall be discharged to a reception facility. An appropriate entry shall be made in the Cargo Record Book.

Regulation 9

Cargo Record Book

(1) Every ship to which this Annex applies shall be provided with a Cargo Record Book, whether as part of the ship's official log book or otherwise, in the form specified in Appendix IV to this Annex.

(2) The Cargo Record Book shall be completed, on a tank-to-tank basis, whenever any of the following operations with respect to a noxious liquid substance take place in the ship:

(i) Loading of cargo;

(ii) Unloading of cargo;

(iii) Transfer of cargo;

(iv) Transfer of cargo, cargo residues or mixtures containing cargo to a slop tank;

(v) Cleaning of cargo tanks;

(vi) Transfer from slop tanks;

(vii) Ballasting of cargo tanks;

(viii) Transfer of dirty ballast water;

(ix) Discharge into the sea in accordance with Regulation 5 of this Annex.

(3) In the event of any discharge of the kind referred to in Article 8 of the present Convention and Regulation 6 of this Annex of any noxious liquid substance or mixture containing such substance, whether intentional or accidental, an entry shall be made in the Cargo Record Book stating the circumstances of, and the reason for, the discharge.

(4) When a surveyor appointed or authorized by the Government of the Party to the Convention to supervise any operations under this Annex has inspected a ship, then that surveyor shall make an appropriate entry in the Cargo Record Book.

(5) Each operation referred to in paragraphs (2) and (3) of this Regulation shall be fully recorded without delay in the Cargo Record Book so that all the entries in the book appropriate to that operation are completed. Each entry shall be signed by the officer or officers in charge of the operation concerned and, when the ship is manned, each page shall be signed by the Master of the ship. The entries in the Cargo Record Book shall be in an official language of the State whose flag the ship is entitled to fly, and, for ships holding an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973), in English or French. The entries in an official national language of the State whose flag the ship is entitled to fly shall prevail in case of a dispute or discrepancy.

(6) The Cargo Record Book shall be kept in such a place as to be readily available for inspection and, except in the case of unmanned ships under tow, shall be kept on board the ship. It shall be retained for a period of two years after the last entry has been made.

(7) The competent authority of the Government of a Party may inspect the Cargo Record Book on board any ship to which this Annex applies while the ship is in its port, and may make a copy of any entry in that book and may require the Master of the ship to certify that the copy is a true copy of such entry. Any copy so made which has been certified by the Master of the ship as a true copy of an entry in the ship's Cargo Record Book shall be made admissible in any judicial proceedings as evidence of the facts stated in the entry. The inspection of a Cargo Record Book and the taking of a certified copy by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

Regulation 10

Surveys

(1) Ships which are subject to the provisions of this Annex and which carry noxious liquid substances in bulk shall be surveyed as follows:

(*a*) An initial survey before a ship is put into service or before the certificate required by Regulation 11 of this Annex is issued for the first time, which shall include a complete inspection of its structure, equipment, fittings, arrangements and material in so far as the ship is covered by this Annex. The survey shall be such as to ensure full compliance with the applicable requirements of this Annex.

(*b*) Periodical surveys at intervals specified by the Administration which shall not exceed five years and which shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex. However, where the duration of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) is extended as specified in Regulation 12 (2) or (4) of this Annex, the interval of the periodical survey may be extended correspondingly.

(*c*) Intermediate surveys at intervals specified by the Administration which shall not exceed thirty months and which shall be such as to ensure that the equipment and associated pumps and piping systems, fully comply with the applicable requirements of this Annex and are in good working order. The survey shall be endorsed on the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) issued under Regulation 11 of this Annex.

(2) Surveys of a ship with respect to the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it. In every case the Administration concerned shall fully guarantee the completeness and efficiency of the surveys.

(3) After any survey of a ship under this Regulation has been completed, no significant change shall be made in the structure, equipment, fittings, arrangements of material, covered by the survey without the sanction of the Administration, except the direct replacement of such equipment and fittings for the purpose of repair or maintenance.

Regulation 11

Issue of Certificate

(1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) shall be issued to any ship carrying noxious liquid substances which is engaged in voyages to ports or off-shore terminals under the jurisdiction of other Parties to the Convention after survey of such ship in accordance with the provisions of Regulation 10 of this Annex.

(2) Such Certificate shall be issued either by the Administration or by a person or organization duly authorized by it. In every case the Administration shall assume full responsibility for the Certificate.

(3) (*a*) The Government of a Party may, at the request of the Administration, cause a ship to be surveyed and if satisfied that the provisions of this Annex are complied with shall issue or authorize the issue of a Certificate to the ship in accordance with this Annex.

(*b*) A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

(*c*) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and shall have the same force and receive the same recognition as a Certificate issued under paragraph (1) of this Regulation.

(*d*) No International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) shall be issued to any ship which is entitled to fly the flag of a State which is not a Party.

(4) The Certificate shall be drawn up in an official language of the issuing country in a form corresponding to the model given in Appendix V to this Annex. If the language used is neither English nor French, the text shall include a translation into one of these languages.

Regulation 12

Duration of Certificate

(1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) shall be issued for a period specified by the Administration, which shall not exceed five years from the date of issue, except as provided in paragraphs (2) and (4) of this Regulation.

(2) If a ship at the time when the Certificate expires is not in a port or off-shore terminal under the jurisdiction of the Party to the Convention whose flag the ship is entitled to fly, the Certificate may be extended by the Administration, but such extension shall be granted only for the purpose of allowing the ship to complete its voyage to the State whose flag the ship is entitled to fly or in which it is to be surveyed and then only in cases where it appears proper and reasonable to do so.

(3) No Certificate shall be thus extended for a period longer than five months and a ship to which such extension is granted shall not on its arrival in the State whose flag it is entitled to fly or to the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port or State without having obtained a new Certificate.

(4) A Certificate which has not been extended under the provisions of paragraph (2) of this Regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it.

(5) A Certificate shall cease to be valid if significant alterations have taken place in the structure, equipment, fittings, arrangements and material required by this Annex without the sanction of the Administration, except the direct replacement of such equipment or fitting for the purpose of repair or maintenance or if intermediate surveys as specified by the Administration under Regulation 10 (1) (*c*) of this Annex are not carried out.

(6) A Certificate issued to a ship shall cease to be valid upon transfer of such a ship to the flag of another State, except as provided in paragraph (7) of this Regulation.

(7) Upon transfer of a ship to the flag of another Party, the Certificate shall remain in force for a period not exceeding five months provided that it would not have expired before the end of that period, or until the Administration issues a replacement Certificate, whichever is earlier. As soon as possible after the transfer has taken place the Government of the Party whose flag the ship was formerly entitled to fly shall transmit to the Administration a copy of the Certificate carried by the ship before the transfer and, if available, a copy of the relevant survey report.

Regulation 13

Requirements for Minimizing Accidental Pollution

(1) The design, construction, equipment and operation of ships carrying noxious liquid substances in bulk which are subject to the provisions of this Annex shall be such as to minimize the uncontrolled discharge into the sea of such substances.

(2) Pursuant to the provisions of paragraph (1) of this Regulation, the Government of each Party shall issue, or cause to be issued, detailed requirements on the design, construction, equipment and operation of such ships.

(3) In respect of chemical tankers, the requirements referred to in paragraph (2) of this Regulation shall contain at least all the provisions given in the Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk adopted by the Assembly of the Organization in Resolution A.212(VII) and as may be amended by the Organization, provided that the amendments to that Code are adopted and brought into force in accordance with the provisions of Article 16 of the present Convention for amendment procedures to an Appendix to an Annex.

Appendix I

GUIDELINES FOR THE CATEGORIZATION OF NOXIOUS LIQUID SUBSTANCES

Category A

Substances which are bioaccumulated and liable to produce a hazard to aquatic life or human health; or which are highly toxic to aquatic life (as expressed by a Hazard Rating 4, defined by a TLm less than 1 ppm); and additionally certain substances which are moderately toxic to aquatic life (as expressed by a Hazard Rating 3, defined by a TLm of 1 or more, but less than 10 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category B

Substances which are bioaccumulated with a short retention of the order of one week or less; or which are liable to produce tainting of the sea food; or which are moderately toxic to aquatic life (as expressed by a Hazard Rating 3, defined by a TLm of 1 ppm or more, but less than 10 ppm); and additionally certain substances which are slightly toxic to aquatic life (as expressed by a Hazard Rating 2, defined by a TLm of 10 ppm or more, but less than 100 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category C

Substances which are slightly toxic to aquatic life (as expressed by a Hazard Rating 2, defined by a TLm of 10 or more, but less than 100 ppm); and additionally certain substances which are practically non-toxic to aquatic life (as expressed by a Hazard Rating 1, defined by a TLm of 100 ppm or more, but less than 1000 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category D

Substances which are practically non-toxic to aquatic life (as expressed by a Hazard Rating 1, defined by a TLm of 100 ppm or more, but less than 1000 ppm); or causing deposits blanketing the seafloor with a high biochemical oxygen demand (BOD); or highly hazardous to human health, with an LD_{50} of less than 5 mg/kg; or produce moderate reduction of amenities because of persistency, smell or poisonous or irritant characteristics, possibly interfering with use of beaches; or moderately hazardous to human health, with an LD_{50} of 5 mg/kg or more, but less than 50 mg/kg and produce slight reduction of amenities.

Other Liquid Substances (for the purposes of Regulation 4 of this Annex)

Substances other than those categorized in Categories A, B, C and D above.

Appendix II

LIST OF NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK

Substance	*UN Number*	*Pollution Category for operational discharge* (Regulation 3 of Annex II)	*Residual concentration (per cent by weight)* (Regulation 5 (1) of Annex II)	(Regulation 5 (7) of Annex II)
	I	*II*	*III Outside special areas*	*IV Within special areas*
Acetaldehyde	1089	C		
Acetic acid	1842	C		
Acetic anhydride	1715	C		
Acetone	1090	D		
Acetone cyanohydrin	1541	A	0.1	0.05
Acetyl chloride	1717	C		
Acrolein	1092	A	0.1	0.05
Acrylic acid*	. .	C		
Acrylonitrile	1093	B		
Andiponitrile	. .	D		
Alkylbenzene sulfonate	. .			
(straight chain)		C		
(branched chain)		B		
Allyl alcohol	1098	B		
Allyl chloride	1100	C		
Alum (15% solution)	. .	D		
Aminoethylethanolamine (Hydroxyethyl-ethylene-diamine)*	. .	D		
Ammonia (28% aqueous)	1005	B		
iso-Amyl acetate	1104	C		
n-Amyl acetate	1104	C		
n-Amyl alcohol	. .	D		
Aniline	1547	C		
Benzene	1114	C		
Benzyl alcohol	. .	D		
Benzyl chloride	1738	B		
n-Butyl acetate	1123	D		
sec-Butyl acetate	1124	D		
n-Butyl acrylate	. .	D		
Butyl butyrate*	. .	B		
Butylene glycol(s)	. .	D		
Butyl methacrylate	. .	D		
n-Butyraldehyde	1129	B		
Butyric acid	. .	B		
Calcium hydroxide (solution)	. .	D		
Camphor oil	1130	B		
Carbon disulphide	1131	A	0.01	0.005
Carbon tetrachloride	1846	B		
Caustic potash (Potassium hydroxide)	1814	C		
Chloroacetic acid	1750	C		
Chloroform	1888	B		
Chlorohydrins (crude)*	. .	D		
Chloroprene*	1991	C		
Chlorosulphonic acid	1754	C		
para-Chlorotoluene	. .	B		
Citric acid (10%–25%)	. .	D		
Creosote	1334	A	0.1	0.05
Cresols	2076	A	0.1	0.05
Cresylic acid	2022	A	0.1	0.05
Crotonaldehyde	1143	B		
Cumene	1918	C		
Cyclohexane	1145	C		
Cyclohexanol	. .	D		
Cyclohexanone	1915	D		
Cyclohexylamine*	. .	D		
para-Cymene (Isopropyltoluene)*	2046	D		
Decahydronaphthalene	1147	D		
Decane*	. .	D		
Diacetone alcohol*	1148	D		
Dibenzyl ether*	. .	C		
Dichlorobenzenes	1591	A	0.1	0.05
Dichloroethyl ether	1916	B		

Substance	I	II	III	IV
Dichloropropene—Dichloropropane mixture (D.D. Soil fumigant)	2047	B		
Diethylamine	1154	C		
Diethylbenzene (mixed isomers)	2049	C		
Diethyl ether	1155	D		
Diethylenetriamine*	2079	C		
Diethylene glycol monoethyl ether	. .	C		
Diethylketone (3-Pentanone)	1156	D		
Diisobutylene*	2050	D		
Diisobutyl ketone	1157	D		
Diisopropanolamine	. .	C		
Diisopropylamine	1158	C		
Diisopropyl ether*	1159	D		
Dimethylamine (40% aqueous)	1160	C		
Dimethylethanolamine (2-Dimethylamino-ethanol)*	2051	C		
Dimethylformamide	. .	D		
1,4-Dioxane*	1165	C		
Diphenyl/Diphenyloxide, mixtures*	. .	D		
Dodecylbenzene	. .	C		
Epichlorohydrin	2023	B		
2-Ethoxyethyl acetate*	1172	D		
Ethyl acetate	1173	D		
Ethyl acrylate	1917	D		
Ethyl amyl ketone*	. .	C		
Ethylbenzene	1175	C		
Ethyl cyclohexane	. .	D		
Ethylene chlorohydrin (2-Chloro-ethanol)	1135	D		
Ethylene cyanohydrin*	. .	D		
Ethylenediamine	1604	C		
Ethylene dibromide	1605	B		
Ethylene dichloride	1184	B		
Ethylene glycol monoethyl ether (Methyl cellosolve)	1171	D		
2-Ethylhexyl acrylate*	. .	D		

* Asterisk indicates that the substance has been provisionally included in this list and that further data are necessary in order to complete the evaluation of its environmental hazards, particularly in relation to living resources.

* Asterisk indicates that the substance has been provisionally included in this list and that further data are necessary in order to complete the evaluation of its environmental hazards, particularly in relation to living resources.

Substance	I	II	III	IV
2-Ethylhexyl alcohol	. .	C		
Ethyl lactate*	1192	D		
2-Ethyl 3-propyl-acrolein*	. .	B		
Formaldehyde (37–50% solution)	1198	C		
Formic acid	1779	D		
Furfuryl alcohol	. .	C		
Heptanoic acid*	. .	D		
Hexamethylenediamine*	1783	C		
Hydrochloric acid	1789	D		
Hydrofluoric acid (40% aqueous)	1790	B		
Hydrogen peroxide (greater than 60%)	2015	C		
Isobutyl acrylate	. .	D		
Isobutyl alcohol	1212	D		
Isobutyl methacrylate	. .	D		
Isobutyraldehyde	2045	C		
Isooctane*	. .	D		
Isopentane	. .	D		
Isophorone	. .	D		
Isopropylamine	1221	C		
Isopropyl cyclohexane	. .	D		
Isoprene	1218	D		
Lactic acid	. .	D		
Mesityl oxide*	1229	C		
Methyl acetate	1231	D		
Methyl acrylate	1919	C		
Methylamyl alcohol	. .	D		
Methylene chloride	1593	B		
2-Methyl-5-Ethyl-pyridine*	. .	B		
Methyl methacrylate	1247	D		
2-Methylpentene*	. .	D		
alpha-Methylstyrene*	. .	D		
Monochlorobenzene	1134	B		
Monoethanolamine	. .	D		

Substance	I	II	III	IV
Monoisopropanolamine	. .	C		
Monomethyl ethanolamine	. .	C		
Mononitrobenzene	. .	C		
Monoisopropylamine	. .	C		
Morpholine*	2054	C		
Naphthalene (molten)	1334	A	0.1	0.05
Naphthenic acids*	. .	A	0.1	0.05
Nitric acid (90%)	2031/ 2032	C		
2-Nitropropane	. .	D		
ortho-Nitrotoluene	1664	C		
Nonyl alcohol*	. .	C		
Nonylphenol	. .	C		
n-Octanol	. .	C		
Oleum	1831	C		
Oxalic acid (10–25%)	. .	D		
Pentachloroethane	1669	B		
n-Pentane	1265	C		
Perchloroethylene (Tetrachloroethylene)	1897	B		
Phenol	1671	B		
Phosphoric acid	1805	D		
Phosphorus (elemental)	1338	A	0.01	0.005
Phthalic anhydride (molten)	. .	C		
beta-Propiolactone*	. .	B		

* Asterisk indicates that the substance has been provisionally included in this list and that further data are necessary in order to complete the evaluation of its environmental hazards, particularly in relation to living resources.

Propionaldehyde	1275	D		
Propionic acid	1848	D		
Propionic anhydride	. .	D		
n-Propyl acetate*	1276	C		
n-Propyl alcohol	1274	D		
n-Propylamine	1277	C		
Pyridine	1282	B		
Silicon tetrachloride	1818	D		
Sodium bichromate (solution)	. .	C		
Sodium hydroxide	1824	C		
Sodium pentachlorophenate (solution)	. .	A	0.1	0.05
Styrene monomer	2055	C		
Sulphuric acid	1830/ 1831/ 1832	C		
Tallow	. .	D		
Tetraethyl lead	1649	A	0.1	0.05
Tetrahydrofuran	2056	D		
Tetrahydronaphthalene	1540	C		
Tetramethylbenzene	. .	D		
Tetramethyl lead	1649	A	0.1	0.05
Titanium tetrachloride	1838	D		
Toluene	1294	C		
Toluene diisocyanate*	2078	B		
Trichloroethane	. .	C		
Trichlorethylene	1710	B		
Triethanolamine	. .	D		
Triethylamine	1296	C		
Trimethylbenzene*	. .	C		
Tritolyl phosphate (Tricresyl phosphate)*	. .	B		
Turpentine (wood)	1299	B		
Vinyl acetate	1301	C		
Vinylidene chloride*	1303	B		
Xylenes (mixed isomers)	1307	C		

* Asterisk indicates that the substance has been provisionally included in this list and that further data are necessary in order to complete the evaluation of its environmental hazards, particularly in relation to living resources.

Appendix III

LIST OF OTHER LIQUID SUBSTANCES CARRIED IN BULK

Acetonitrile (Methyl cyanide)
tert-Amyl alcohol
n-Butyl-alcohol
Butyrolactone
Calcium chloride (solution)
Castor Oil
Citric juices
Coconut oil
Cod liver oil
iso-Decyl alcohol
n-Decyl alcohol
Decyl octyl alcohol
Dibutyl ether
Diethanolamine
Diethylene glycol
Dipentene
Dipropylene glycol
Ethyl alcohol
Ethylene glycol
Fatty alcohols (C_{12}-C_{20})
Glycerine
n-Heptane
Heptene (Mixed isomers)
n-Hexane
Ligroin
Methyl alcohol
Methyamyl acetate
Methylethyl ketone (2-butanone)
Milk
Molasses
Olive Oil
Polypropylene glycol
iso-Propyl acetate
iso-Propyl alcohol
Propylene glycol
Propylene oxide
Propylene tetramer
Propylene trimer
Sorbitol
Sulphur (liquid)
Tridecanol
Triethylene glycol
Triethylenetetramine
Tripropylene glycol
Water
Wine

Appendix IV

CARGO RECORD BOOK FOR SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK

Name of ship .....

Cargo carrying capacity of each tank in cubic metres .....

Voyage from ..... to .....

(*a*) **Loading of cargo**

1. Date and place of loading
2. Name and category of cargo(es) loaded
3. Identity of tank(s) loaded

(*b*) **Transfer of cargo**

4. Date of transfer
5. Identity of tank(s) (i) From
   (ii) To
6. Was (were) tank(s) in 5 (i) emptied?
7. If not, quantity remaining

(*c*) **Unloading of cargo**

8. Date and place of unloading
9. Identity of tank(s) unloaded
10. Was (were) tank(s) emptied?
11. If not, quantity remaining in tank(s)
12. Is(are) tank(s) to be cleaned?
13. Amount transferred to slop tank
14. Identity of slop tank

(*d*) **Ballasting of cargo tanks**

15. Identity of tank(s) ballasted
16. Date and position of ship at start of ballasting

(*e*) **Cleaning of cargo tanks**

Category A substances

17. Identity of tank(s) cleaned
18. Date and location of cleaning
19. Method(s) of cleaning
20. Location of reception facility used
21. Concentration of effluent when discharge to reception facility stopped
22. Quantity remaining in tank
23. Procedure and amount of water introduced into tank in final cleaning
24. Location, date of discharge into sea
25. Procedure and equipment used in discharge into the sea

Category B, C and D substances

26. Washing procedure used
27. Quantity of water used
28. Date, location of discharge into sea
29. Procedure and equipment used in discharge into the sea

(*f*) **Transfer of dirty ballast water**

30. Identity of tank(s)
31. Date and position of ship at start of discharge into sea
32. Date and position of ship at finish of discharge into sea
33. Ship's speed(s) during discharge
34. Quantity discharged into sea
35. Quantity of polluted water transferred to slop tank(s) (identify slop tank(s))
36. Date and port of discharge to shore reception facilities (if applicable)

(*g*) **Transfer from slop tank/disposal of residue**

37. Identity of slop tank(s)
38. Quantity disposed from each tank
39. Method of disposal of residue:
    (*a*) Reception facilities
    (*b*) Mixed with cargo
    (*c*) Transferred to another (other) tank(s) (identify tank(s))
    (*d*) Other method
40. Date and port of disposal of residue

(*h*) **Accidental or other exceptional discharge**

41. Date and time of occurrence
42. Place or position of ship at time of occurrence
43. Approximate quantity, name and category of substance
44. Circumstances of discharge or escape and general remarks.

..... Signature of Master

Appendix V

FORM OF CERTIFICATE

INTERNATIONAL POLLUTION PREVENTION CERTIFICATE FOR THE CARRIAGE OF NOXIOUS LIQUID SUBSTANCES IN BULK (1973)

(*Note:* This Certificate shall be supplemented in the case of a chemical tanker by the certificate required pursuant to the provisions of Regulation 13 (3) of Annex II of the Convention)

(*Official Seal*)

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, under the authority of the Government.

of .....
(*full official designation of the country*)

by .....
(*full official designation of the competent person or organization authorized under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973*)

Name of Ship	*Distinctive Number or Letter*	*Port of Registry*	*Gross Tonnage*

THIS IS TO CERTIFY:

1. That the ship has been surveyed in accordance with the provisions of Regulation 10 of Annex II of the Convention.

2. That the survey showed that the design, construction and equipment of the ship are such as to minimize the uncontrolled discharge into the sea of noxious liquid substances.

3. That the following arrangements and procedures have been approved by the Administration in connexion with the implementation of Regulation 5 of Annex II of the Convention:

.....
(*Continued on the annexed signed and dated sheet(s)*)

.....

This Certificate is valid until .....

subject to intermediate survey(s) at intervals of .....

Issued at .....
(*place of issue of Certificate*)

..... 19..... .....
(*Signature of duly authorized official issuing the Certificate*)

(*Seal or stamp of the issuing Authority, as appropriate*)

Intermediate Surveys

This is to certify that at an intermediate survey required by Regulation 10 (1) (*c*) of Annex II of the Convention, this ship and the condition thereof are found to comply with the relevant provisions of the Convention.

Signed .....
(Signature of duly authorized official)

Place .....

Date .....

(Seal or stamp of the Authority, as appropriate)

Signed .....
(Signature of duly authorized official)

Place .....

Date .....

(Seal or stamp of the Authority, as appropriate)

Under the provisions of Regulation 12 (2) and (4) of Annex II of the Convention the validity of this Certificate is extended until

.....

Signed .....
(Signature of duly authorized official)

Place .....

Date .....

(Seal or stamp of the Authority, as appropriate)

SCHEDULE 2

[s. 3]

THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

THE PARTIES TO THE PRESENT PROTOCOL,

RECOGNIZING the significant contribution which can be made by the International Convention for the Prevention of Pollution from Ships, 1973, to the protection of the marine environment from pollution from ships,

RECOGNIZING ALSO the need to improve further the prevention and control of marine pollution from ships, particularly oil tankers,

RECOGNIZING FURTHER the need for implementing the Regulations for the Prevention of Pollution by Oil contained in Annex I of that Convention as early and as widely as possible,

ACKNOWLEDGING HOWEVER the need to defer the application of Annex II of that Convention until certain technical problems have been satisfactorily resolved,

CONSIDERING that these objectives may best be achieved by the conclusion of a Protocol relating to the International Convention for the Prevention of Pollution from Ships, 1973,

HAVE AGREED as follows:

Article I

General Obligations

1. The Parties to the present Protocol undertake to give effect to the provisions of—
   (*a*) the present Protocol and the Annex hereto which shall constitute an integral part of the present Protocol; and
   (*b*) the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as "the Convention"), subject to the modifications and additions set out in the present Protocol.

2. The provisions of the Convention and the present Protocol shall be read and interpreted together as one single instrument.

3. Every reference to the present Protocol constitutes at the same time a reference to the Annex hereto.

Article II

Implementation of Annex II of the Convention

1. Notwithstanding the provisions of Article 14 (1) of the Convention, the Parties to the present Protocol agree that they shall not be bound by the provisions of Annex II of the Convention for a period of three years from the date of entry into force of the present Protocol or for such longer period as may be decided by a two-thirds majority of the Parties to the present Protocol in the Marine Environment Protection Committee (hereinafter referred to as "the Committee") of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the Organization").

2. During the period specified in paragraph 1 of this Article, the Parties to the present Protocol shall not be under any obligations nor entitled to claim any privileges under the Convention in respect of matters relating to Annex II of the Convention and all reference to Parties in the Convention shall not include the Parties to the present Protocol in so far as matters relating to that Annex are concerned.

Article III

Communication of Information

The text of Article II (1) (*b*) of the Convention is replaced by the following:

"a list of nominated surveyors or recognized organizations which are authorized to act on their behalf in the administration of matters relating to the design, construction, equipment and operation of ships carrying harmful substances in accordance with the provisions of the Regulations for circulation to the Parties for information of their officers. The Administration shall therefore notify the Organization of the specific responsibilities and conditions of the authority delegated to nominated surveyors or recognized organizations."

Article IV

Signature, Ratification, Acceptance, Approval and Accession

1. The present Protocol shall be open for signature at the Headquarters of the Organization from 1 June 1978 to 31 May 1979 and shall thereafter remain open for accession. States may become Parties to the present Protocol by—

(*a*) signature without reservation as to ratification, acceptance or approval; or

(*b*) signature, subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(*c*) accession.

2. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

Article V

Entry into Force

1. The present Protocol shall enter into force twelve months after the date on which not less than fifteen States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become Parties to it in accordance with Article IV of the present Protocol.

2. Any instrument of ratification, acceptance, approval or accession deposited after the date on which the present Protocol enters into force shall take effect three months after the date of deposit.

3. After the date on which an amendment to the present Protocol is deemed to have been accepted in accordance with Article 16 of the Convention, any instrument of ratification, acceptance, approval or accession deposited shall apply to the present Protocol as amended.

Article VI

Amendments

The procedures set out in Article 16 of the Convention in respect of amendments to the Articles, an Annex and an Appendix to an Annex of the Convention shall apply respectively to amendments to the Articles, the Annex and an Appendix to the Annex of the present Protocol.

Article VII

Denunciation

1. The present Protocol may be denounced by any Party to the present Protocol at any time after the expiry of five years from the date on which the Protocol enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General of the Organization.

3. A denunciation shall take effect twelve months after receipt of the notification by the Secretary-General of the Organization or after the expiry of any other longer period which may be indicated in the notification.

Article VIII

Depositary

1. The present Protocol shall be deposited with the Secretary-General of the Organization (hereinafter referred to as "the Depositary").

2. The Depositary shall—

(*a*) inform all States which have signed the present Protocol or acceded thereto of—

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of the present Protocol;

(iii) the deposit of any instrument of denunciation of the present Protocol together with the date on which it was received and the date on which the denunciation takes effect;

(iv) any decision made in accordance with Article II (1) of the present Protocol;

(*b*) transmit certified true copies of the present Protocol to all States which have signed the present Protocol or acceded thereto.

3. As soon as the present Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article IX

Languages

The present Protocol is established in a single original in the English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German, Italian and Japanese languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed the present Protocol.

DONE AT LONDON this seventeenth day of February one thousand nine hundred and seventy-eight.

Annex

MODIFICATIONS AND ADDITIONS TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

Annex 1

REGULATIONS FOR THE PREVENTION OF POLLUTION BY OIL

Regulation 1

Definitions

Paragraphs (1) to (7)—*No change*

The existing text of paragraph (8) is replaced by the following:

(8) (*a*) "Major conversion" means a conversion of an existing ship—

(i) which substantially alters the dimensions or carrying capacity of the ship; or

(ii) which changes the type of the ship; or

(iii) the intent of which in the opinion of the Administration is substantially to prolong its life; or

(iv) which otherwise so alters the ship that, if it were a new ship, it would become subject to relevant provisions of the present Protocol not applicable to it as an existing ship.

(*b*) Notwithstanding the provisions of sub-paragraph (*a*) of this paragraph, conversion of an existing oil tanker of 20 000 tons deadweight and above to meet the requirements of Regulation 13 of this Annex shall not be deemed to constitute a major conversion for the purposes of this Annex.

Paragraphs (9) to (22)—*No change*

The existing text of paragraph (23) is replaced by the following:

(23) "Lightweight" means the displacement of a ship in metric tons without cargo, fuel, lubricating oil, ballast water, fresh water and feed water in tanks, consumable stores, and passengers and crew and their effects.

Paragraphs (24) and (25)—*No change*

The following paragraphs are added to the existing text:

(26) Notwithstanding the provisions of paragraph (6) of this Regulation, for the purposes of Regulations 13, 13B, 13E and 18 (5) of this Annex, "new oil tanker" means an oil tanker—

(*a*) for which the building contract is placed after 1 June 1979; or

(*b*) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after 1 January 1980; or

(*c*) the delivery of which is after 1 June 1982; or

(*d*) which has undergone a major conversion—

(i) for which the contract is placed after 1 June 1979; or

(ii) in the absence of a contract, the construction work of which is begun after 1 January 1980; or

(iii) which is completed after 1 June 1982—

except that, for oil tankers of 70 000 tons deadweight and above, the definition in paragraph (6) of this Regulation shall apply for the purposes of Regulation 13 (1) of this Annex.

(27) Notwithstanding the provisions of paragraph (7) of this Regulation, for the purposes of Regulations 13, 13A, 13B, 13C, 13D and 18 (6) of this Annex, "existing oil tanker" means an oil tanker which is not a new oil tanker as defined in paragraph (26) of this Regulation.

(28) "Crude oil" means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes—

(*a*) crude oil from which certain distillate fractions may have been removed; and

(*b*) crude oil to which certain distillate fractions may have been added.

(29) "Crude oil tanker" means an oil tanker engaged in the trade of carrying crude oil.

(30) "Product carrier" means an oil tanker engaged in the trade of carrying oil other crude oil.

Regulations 2 and 3—*No change*

Regulation 4

The existing text of Regulation 4 is replaced by the following:

Surveys and Inspections

(1) Every oil tanker of 150 tons gross tonnage and above and every other ship of 400 tons gross tonnage and above shall be subject to the surveys specified below:

(*a*) An initial survey before the ship is put in service or before the Certificate required under Regulation 5 of this Annex is issued for the first time, which shall include a complete survey of its structure , equipment, systems, fittings, arrangements and material in so far as the ship is covered by this Annex. This survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Annex.

(*b*) Periodical surveys at intervals specified by the Administration, but not exceeding five years, which shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the requirements of this Annex.

(*c*) A minimum of one intermediate survey during the period of validity of the Certificate which shall be such as to ensure that the equipment and associated pump and piping systems, including oil discharge monitoring and control systems, crude oil washing systems, oily-water separating equipment and oil filtering systems, fully comply with the applicable requirements of this Annex and are in good working order. In cases where only one such intermediate survey is carried out in any one Certificate validity period, it shall be held not before six months prior to, nor later than six months after the half-way date of the Certificate's period of validity. Such intermediate surveys shall be endorsed on the Certificate issued under Regulation 5 of this Annex.

(2) The Administration shall establish appropriate measures for ships which are not subject to the provisions of paragraph (1) of this Regulation in order to ensure that the applicable provisions of this Annex are complied with.

(3) (*a*) Surveys of ships as regards the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.

(*b*) The Administration shall institute arrangements for unscheduled inspections to be carried out during the period of validity of the Certificate. Such inspections shall ensure that the ship and its equipment remain in all respects satisfactory for the service for which the ship is intended. These inspections may be carried out by their own inspection services, or by nominated surveyors or by recognized organizations, or by other Parties upon request of the Administration. Where the Administration, under the provisions of paragraph (1) of this Regulation, establishes mandatory annual surveys, the above unscheduled inspections shall not be obligatory.

(*c*) An administration nominating surveyors or recognizing organizations to conduct surveys and inspections as set forth in sub-paragraphs (*a*) and (*b*) of this paragraph, shall as a minimum empower any nominated surveyor or recognized organization to—

(i) require repairs to a ship; and

(ii) carry out surveys and inspections if requested by the appropriate authorities of a Port State.

The Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations, for circulation to Parties to the present Protocol for the information of their officers.

(*d*) When a nominated surveyor or recognized organization determines that the condition of the ship or its equipment does not correspond substantially with the particulars of the Certificate or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, such surveyor or organization shall immediately ensure that corrective action is taken and shall in due course notify the Administration. If such corrective action is not taken the Certificate should be withdrawn and the Administration shall be notified immediately; and if the ship is in a port of another Party, the appropriate authorities of the Port State shall also be notified immediately. When an officer of the Administration, a nominated surveyor or recognized organization has notified the appropriate authorities of the Port State, the Government of the Port State concerned shall give such officer, surveyor or organization any necessary assistance to carry out their obligations under this Regulation. When applicable, the Government of the Port State concerned shall take such steps as will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available without presenting an unreasonable threat of harm to the marine environment.

(*e*) In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the survey and inspection and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(4) (*a*) The condition of the ship and its equipment shall be maintained to conform with the provisions of the present Protocol to ensure that the ship in all respects will remain fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(*b*) After any survey of the ship under paragraph (1) of this Regulation has been completed, no change shall be made in the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the sanction of the Administration, except the direct replacement of such equipment and fittings.

(*c*) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by this Annex the master or owner of the ship shall report at the earliest opportunity to the Administration, the recognized organization or the nominated surveyor responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by paragraph (1) of this Regulation is necessary. If the ship is in a port of another Party, the master or owner shall also report immediately to the appropriate authorities of the Port State and the nominated surveyor or recognized organization shall ascertain that such report has been made.

Regulations 5, 6 and 7

In the existing text of these Regulations, delete all references to "(1973)" in relation to the International Oil Pollution Prevention Certificate.

Regulation 8

Duration of Certificate

The existing text of Regulation 8 is replaced by the following:

(1) An International Oil Pollution Prevention Certificate shall be issued for a period specified by the Administration, which shall not exceed five years from the date of issue, provided that in the case of an oil tanker operating with dedicated clean ballast tanks for a limited period specified in Regulation 13 (9) of this Annex, the period of validity of the Certificate shall not exceed such specified period.

(2) A Certificate shall cease to be valid if significant alterations have taken place in the construction, equipment, systems, fittings, arrangements or material required without the sanction of the Administration, except the direct replacement of such equipment or fittings, or if intermediate surveys as specified by the Administration under Regulation 4 (1) (*c*) of this Annex are not carried out.

(3) A Certificate issued to a ship shall also cease to be valid upon transfer of the ship to the flag of another State. A new Certificate shall only be issued when the Government issuing the new Certificate is fully satisfied that the ship in full compliance with the requirements of Regulation 4 (4) (*a*) and (*b*) of this Annex. In the case of a transfer between Parties, if requested within three months after the transfer has taken place, the Government of the Party whose flag the ship was formerly entitled to fly shall transmit as soon as possible to the Administration a copy of the Certificate carried by the ship before the transfer and, if available, a copy of the relevant survey report.

Regulations 9 to 12—*No change*

The existing text of Regulation 13 is replaced by the following Regulations:

Regulation 13

Segregated Ballast Tanks, Dedicated Clean Ballast Tanks and Crude Oil Washing

Subject to the provisions of Regulations 13C and 13D of this Annex, oil tankers shall comply with the requirements of this Regulation.

New oil tankers of 20 000 tons deadweight and above

(1) Every new crude oil tanker of 20 000 tons deadweight and above and every new product carrier of 30 000 tons deadweight and above shall be provided with segregated ballast tanks and shall comply with paragraphs (2), (3) and (4), or paragraph (5) as appropriate, of this Regulation.

(2) The capacity of the segregated ballast tanks shall be so determined that the ship may operate safely on ballast voyages without recourse to the use of cargo tanks for water ballast except as provided for in paragraph (3) or (4) of this Regulation. In all cases, however, the capacity of segregated ballast tanks shall be at least such that, in any ballast condition at any part of the voyage, including the conditions consisting of lightweight plus segregated ballast only, the ship's draughts and trim can meet each of the following requirements:

(*a*) The moulded draught amidships (dm) in metres (without taking into account any ship's deformation) shall not be less than:

$$dm = 2.0 + 0.02L;$$

(*b*) The draughts at the forward and after perpendiculars shall correspond to those determined by the draught amidships (dm) as specified in sub-paragraph (*a*) of this paragraph, in association with the trim by the stern of not greater than 0.015L; and

(*c*) In any case the draught at the after perpendicular shall not be less than that which is necessary to obtain full immersion of the propeller(s).

(3) In no case shall ballast water be carried in cargo tanks except on those rare voyages when weather conditions are so severe that, in the opinion of the master, it is necessary to carry additional ballast water in cargo tanks for the safety of the ship. Such additional ballast water shall be processed and discharged in compliance with Regulation 9 of this Annex and in accordance with the requirements of Regulation 15 of this Annex and entry shall be made in the Oil Record Book referred to in Regulation 20 of this Annex.

(4) In the case of new crude oil tankers, the additional ballast permitted in paragraph (3) of this Regulation shall be carried in cargo tanks only if such tanks have been crude oil washed in accordance with Regulation 13B of this Annex before departure from an oil unloading port or terminal.

(5) Notwithstanding the provisions of paragraph (2) of this Regulation, the segregated ballast conditions for oil tankers less than 150 metres in length shall be to the satisfaction of the Administration.

(6) Every new crude oil tanker of 20,000 tons deadweight and above shall be fitted with a cargo tank cleaning system using crude oil washing. The Administration shall undertake to ensure that the system fully complies with the requirements of Regulation 13B of this Annex within one year after the tanker was first engaged in the trade of carrying crude oil or by the end of the third voyage carrying crude oil suitable for crude oil washing, whichever occurs later. Unless such oil tanker carriers crude oil which is not suitable for crude oil washing, the oil tanker shall operate the system in accordance with the requirements of that Regulation.

Existing crude oil tankers of 40 000 tons deadweight and above

(7) Subject to the provisions of paragraphs (8) and (9) of this Regulation every existing crude oil tanker of 40 000 tons deadweight and above shall be provided with segregated ballast tanks and shall comply with the requirements of paragraphs (2) and (3) of this Regulation from the date of entry into force of the present Protocol.

(8) Existing crude oil tankers referred to in paragraph (7) of this Regulation may, in lieu of being provided with segregated ballast tanks, operate with a cargo tank cleaning procedure using crude oil washing in accordance with Regulation 13B of this Annex unless the crude oil tanker is intended to carry crude oil which is not suitable for crude oil washing.

(9) Existing crude oil tankers referred to in paragraph (7) or (8) of this Regulation may, in lieu of being provided with segregated ballast tanks or operating with a cargo tank cleaning procedure using crude oil washing, operate with dedicated clean ballast tanks in accordance with the provisions of Regulation 13A of this Annex for the following period:

(*a*) For crude oil tankers of 70 000 tons deadweight and above, until two years after the date of entry into force of the present Protocol; and

(*b*) For crude oil tankers of 40 000 tons deadweight and above but below 70 000 tons deadweight, until four years after the date of entry into force of the present Protocol.

Existing product carriers of 40 000 tons deadweight and above

(10) From the date of entry into force of the present Protocol, every existing product carrier of 40 000 tons deadweight and above shall be provided with segregated ballast tanks and shall comply with the requirements of paragraphs (2) and (3) of this Regulation, or, alternatively, operate with dedicated clean ballast tanks in accordance with the provisions of Regulation 13A of this Annex.

An oil tanker qualified as a segregated ballast oil tanker

(11) Any oil tanker which is not required to be provided with segregated ballast tanks in accordance with paragraph (1), (7) or (10) of this Regulation may, however, be qualified as a segregated ballast tanker, provided that it complies with the requirements of paragraphs (2) and (3), or paragraph (5) as appropriate, of this Regulation.

Regulation 13A

Requirements for Oil Tankers with Dedicated Clean Ballast Tanks

(1) An oil tanker operating with dedicated clean ballast tanks in accordance with the provisions of Regulation 13 (9) or (10) of this Annex, shall have adequate tank capacity, dedicated solely to the carriage of clean ballast as defined in Regulation 1 (16) of this Annex, to meet the requirements of Regulation 13 (2) and (3) of this Annex.

(2) The arrangements and operational procedures for dedicated clean ballast tanks shall comply with the requirements established by the Administration. Such requirements shall contain at least all the provisions of the Specifications for Oil Tankers with Dedicated Clean Ballast Tanks adopted by the International Conference on Tanker Safety and Pollution Prevention, 1978, in Resolution 14 and as may be revised by the Organization.

(3) An oil tanker operating with dedicated clean ballast tanks shall be equipped with an oil content meter, approved by the Administration on the basis of specifications recommended by the Organization*, to enable supervision of the oil content in ballast water being discharged. The oil content meter shall be installed no later than at the first scheduled shipyard visit of the tanker following the entry into force of the present Protocol. Until such time as the oil content meter is installed, it shall immediately before discharge of ballast be established by examination of the ballast water from dedicated tanks that no contamination with oil has taken place.

* Reference is made to the Recommendation on International Performance and Test Specifications for Oily-Water Separating Equipment and Oil Content Meters adopted by the Organization by Resolution A.393 (X).

(4) Every oil tanker operating with dedicated clean ballast tanks shall be provided with—

(*a*) a Dedicated Clean Ballast Tank Operation Manual detailing the system and specifying operational procedures. Such a manual shall be to the satisfaction of the Administration and shall contain all the information set out in the Specifications referred to in paragraph (2) of this Regulation. If an alteration affecting the dedicated clean ballast tank system is made, the Operation Manual shall be revised accordingly; and

(*b*) a Supplement to the Oil Record Book referred to in Regulation 20 of this Annex as set out in Supplement 1 to Appendix III of this Annex. The Supplement shall be permanently attached to the Oil Record Book.

Regulation 13B

Requirements for Crude Oil Washing

(1) Every crude oil washing system required to be provided in accordance with Regulation 13 (6) and (8) of this Annex shall comply with the requirements of this Regulation.

(2) The crude oil washing installation and associated equipment and arrangements shall comply with the requirements established by the Administration. Such requirements shall contain at least all the provisions of the Specifications for the Design, Operation and Control of Crude Oil Washing Systems adopted by the International Conference on Tanker Safety and Pollution Prevention, 1978, in Resolution 15 and as may be revised by the Organization.

(3) An inert gas system shall be provided in every cargo tank and slop tank in accordance with the appropriate Regulations of Chapter II–2 of the International Convention for the Safety of Life at Sea, 1974, as modified and added to by the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974.

(4) With respect to the ballasting of cargo tanks, sufficient cargo tanks shall be crude oil washed prior to each ballast voyage in order that, taking into account the tanker's trading pattern and expected weather conditions, ballast water is put only into cargo tanks which have been crude oil washed.

(5) Every oil tanker operating with crude oil washing system shall be provided with—

(*a*) an Operations and Equipment Manual detailing the system and equipment and specifying operational procedures. Such a Manual shall be to the satisfaction of the Administration and shall contain all the information set out in the Specifications referred to in paragraph (2) of this Regulation. If an alteration affecting the crude oil washing system is made, the Operations and Equipment Manual shall be revised accordingly; and

(*b*) a Supplement to the Oil Record Book referred to in Regulation 20 of this Annex as set out in Supplement 2 to Appendix III of this Annex. The Supplement shall be permanently attached to the Oil Record Book.

Regulation 13C

Existing Tankers Engaged in Specific Trades

(1) Subject to the provisions of paragraphs (2) and (3) of this Regulation, Regulation 13 (7) to (10) of this Annex shall not apply to an existing oil tanker solely engaged in specific trades between—

(*a*) ports or terminals within a State Party to the present Protocol; or

(*b*) ports or terminals of States Parties to the present Protocol, where—

(i) the voyage is entirely within a Special Area as defined in Regulation 10 (1) of this Annex; or

(ii) the voyage is entirely within limits designated by the Organization.

(2) The provisions of paragraph (1) of this Regulation shall only apply when the ports or terminals where cargo is loaded on such voyages are provided with reception facilities adequate for the reception and treatment of all the ballast and tank washing water from oil tankers using them and all the following conditions are complied with:

(*a*) Subject to the exceptions provided for in Regulation 11 of this Annex, all ballast water, including clean ballast water, and tank washing residues are retained on board and transferred to the reception facilities and the entry in the appropriate Sections of the Supplement to the Oil Record Book referred to in paragraph (3) of this Regulation is endorsed by the competent Port State authority;

(*b*) Agreement has been reached between the Administration and the Governments of the Port States referred to in sub-pargraph (1) (*a*) or (*b*) of this Regulation concerning the use of an existing oil tanker for a specific trade;

(*c*) The adequacy of the reception facilities in accordance with the relevant provisions of this Annex at the ports or terminals referred to above, for the purpose of this Regulation, is approved by the Governments of the States Parties to the present Protocol within which such ports or terminals are situated; and

(*d*) The International Oil Pollution Prevention Certificate is endorsed to the effect that the oil tanker is solely engaged in such specific trade.

(3) Every oil tanker engaged in a specific trade shall be provided with a Supplement to the Oil Record Book referred to in Regulation 20 of this Annex as set out in Supplement 3 to Appendix III of this Annex. The Supplement shall be permanently attached to the Oil Record Book.

Regulation 13D

Existing Oil Tankers Having Special Ballast Arrangements

(1) Where an existing oil tanker is so constructed or operates in such a manner that it complies at all times with the draught and trim requirements set out in Regulation 13 (2) of this Annex without recourse to the use of ballast water, it shall be deemed to comply with the segregated ballast tank requirements referred to in Regulation 13 (7) of this Annex, provided that all of the following conditions are complied with:

(*a*) Operational procedures and ballast arrangements are approved by the Administration;

(*b*) Agreement is reached between the Administration and the Governments of the Port States Parties to the present Protocol concerned when the draught and trim requirements are achieved through an operational procedure; and

(*c*) The International Oil Pollution Prevention Certificate is endorsed to the effect that the oil tanker is operating with special ballast arrangements.

(2) In no case shall ballast water be carried in oil tanks except on those rare voyages when weather conditions are so severe that, in the opinion of the master, it is necessary to carry additional ballast water in cargo tanks for the safety of the ship. Such additional ballast water shall be processed and discharged in compliance with Regulation 9 of this Annex and in accordance with the requirements of Regulation 15 of this Annex, and entry shall be made in the Oil Record Book referred to in Regulation 20 of this Annex.

(3) An Administration which has endorsed a Certificate in accordance with sub-paragraph (1) (*c*) of this Regulation shall communicate to the Organization the particulars thereof for circulation to the Parties to the present Protocol.

Regulation 13E

Protective Location of Segregated Ballast Spaces

(1) In every new crude oil tanker of 20 000 tons deadweight and above and every new product carrier of 30 000 tons deadweight and above, the segregated ballast tanks required to provide the capacity to comply with the requirements of Regulation 13 of this Annex which are located within the cargo tank length, shall be arranged in accordance with the requirements of paragraphs (2), (3) and (4) of this Regulation to provide a measure of protection against oil outflow in the event of grounding or collision.

(2) Segregated ballast tanks and spaces other than oil tanks within the cargo tank length (L_t) shall be so arranged as to comply with the following requirement:

$$\Sigma PA_c + \Sigma PA_s \geq J[L_t(B + 2D)]$$

where: PA_c = the side shell area in square metres for each segregated ballast tank or space other than an oil tank based on projected moulded dimensions,

PA_s = the bottom shell area in square metres for each such tank or space based on projected moulded dimensions,

L_t = length in metres between the forward and after extremities of the cargo tanks,

B = maximum breadth of the ship in metres as defined in Regulation 1 (21) of this Annex,

D = moulded depth in metres measured vertically from the top of the keel to the top of the freeboard deck beam at side amidships. In ships having rounded gunwales, the moulded depth shall be measured to the point of intersection of the moulded lines of the deck and side shell plating, the lines extending as though the gunwale were of angular design,

J = 0.45 for oil tankers of 20 000 tons deadweight 0.30 for oil tankers of 200 000 tons deadweight and above, subject to the provisions of paragraph (3) of this Regulation.

For intermediate values of deadweight the value of "J" shall be determined by linear interpolation.

Whenever symbols given in this paragraph appear in this Regulation, they have the meaning as defined in this paragraph.

(3) For tankers of 200 000 tons deadweight and above the value of "J" may be reduced as follows:

$$\text{J reduced} = \left[\left[\text{J} - \left(\text{a} - \frac{0_c \quad 0_s}{4 \quad 0_A} +\right)\right]\right] \text{ or } 0.2 \text{ whichever is greater}$$

where: a = 0.25 for oil tankers of 200 000 tons deadweight

a = 0.40 for oil tankers of 300 000 tons deadweight

a = 0.50 for oil tankers of 420 000 tons deadweight and above,

For intermediate values of deadweight the value of "a" shall be determined by linear interpolation.

0_c = as defined in Regulation 23 (1) (*a*) of this Annex,

0_s = as defined in Regulation 23 (1) (*b*) of this Annex,

0_A = the allowable oil outflow as required by Regulation 24 (2) of this Annex.

(4) In the determination of "PA_c" and "PA_s" for segregated ballast tanks and spaces other than oil tanks the following shall apply:

(*a*) The minimum width of each wing tank or space either of which extends for the full depth of the ship's side or from the deck to the top of the double bottom shall be not less than 2 metres. The width shall be measured inboard from the ship's side at right angles to the centre line. Where a lesser width is provided the wing tank or space shall not be taken into account when calculating the protecting area "PA_c"; and

(*b*) The minimum vertical depth of each double bottom tank or space shall be B/15 or 2 metres, whichever is the lesser. Where a lesser depth is provided the bottom tank or space shall not be taken into account when calculating the protecting area "PA_s".

The minimum width and depth of wing tanks and double bottom tanks shall be measured clear of the bilge area and, in the case of minimum width, shall be measured clear of any rounded gunwale area.

Regulation 14—*No change*

Regulation 15

In the existing text of this Regulation, delete reference to "(1973)" in relation to the International Oil Pollution Prevention Certificate

Regulations 16 and 17—*No change*

Regulation 18

Pumping, Piping and Discharge Arrangements of Oil Tankers

Paragraphs (1) to (4)—*No change*

The following paragraphs are added to the existing text:

(5) Every new oil tanker required to be provided with segregated ballast tanks, or fitted with a crude oil washing system shall comply with the following requirements:

(*a*) It shall be equipped with oil piping so designed and installed such that oil retention in the lines is minimized; and

(*b*) Means shall be provided to drain all cargo pumps and all oil lines at the completion of cargo discharge, where necessary by connexion to a stripping device. The line and pump drainings shall be capable of being discharged both ashore and to a cargo tank or a slop tank. For discharge ashore a special small diameter line shall be provided for that purpose and connected outboard of the ship's manifold valves.

(6) Every existing crude oil carrier required to be provided with segregated ballast tanks, or fitted with a crude oil washing system or operated with dedicated clean ballast tanks, shall comply with the provisions of paragraph (5) (*b*) of this Regulation.

Regulation 19—*No change*

Regulation 20

In the existing text of this Regulation, delete reference to "(1973)" in relation to the International Oil Pollution Prevention Certificate

Regulations 21 to 25—*No change*

Appendix I—LIST OF OILS

No change

SCHEDULE 2—*continued*

Appendix II—FORM OF CERTIFICATE

The existing form of Certificate is replaced by the following form:

INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE

Issued under the provisions of the Protocol 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, under the Authority of the Government of

.....

(full designation of the country)

by .....

(full designation of the competent person or organization authorized under the provisions of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973)

Name of Ship	*Distinctive Number or Letters*	*Port of Registry*	*Gross Tonnage*

Type of ship:

Crude oil tanker*

Product carrier*

Crude oil/product carrier*

Ship other than an oil tanker with cargo tanks coming under Regulation 2 (2) of Annex I of the Protocol*

Ship other than any of the above*

Date of building or major conversion contract .....

Date on which keel was laid or ship was at a similar stage of construction or on which major conversion was commenced .....

Date of delivery or completion of major conversion .....

PART A ALL SHIPS

The ship is equipped with:

For ships of 400 tons gross tonnage and above—

(*a*) oily-water separating equipment* (capable of producing effluent with an oil content not exceeding 100 parts per million);

(*b*) an oil filtering system* (capable of producing effluent with an oil content not exceeding 100 parts per million);

For ships of 10 000 tons gross tonnage and above—

(*c*) an oil discharge monitoring and control system* (additional to (*a*) or (*b*) above); or

(*d*) oily-water separating equipment and an oil filtering system* (capable of producing effluent with an oil content not exceeding 15 parts per million) in lieu of (*a*) or (*b*) above.

Particulars of requirements from which exemption is granted under Regulation 2 (2) and 2 (4) (*a*) of Annex I of the Protocol:

.....

.....

Remarks:

*Endorsement for existing ships***

This is to certify that this ship has now been so equipped as to comply with the requirements of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as relating to existing ships***

Signed .....

(Signature of duly authorized official)

Place .....

Date.....

(Seal or stamp of the Authority, as appropriate)

---

* Delete as appropriate.

** This entry need not be reproduced on a certificate other than the first Certificate issued to any ship.

*** The period after the entry into force of the Protocol within which oily-water separating equipment, oil discharge control systems, oil filtering systems and/or slop tank arrangements must be provided is set out in Regulations 13A (3), 15 (1) and 16 (4) of Annex I of the Protocol.

PART B OIL TANKERS*

Carrying Capacity of Ship (m^3)	*Deadweight of Ship* (*metric tons*)	*Length of Ship* (*m*)

It is certified that this ship is constructed and equipped, and must operate, in accordance with the following:

1. This ship is—
   (*a*) required to be constructed according to and complies with**
   (*b*) not required to be constructed according to**
   (*c*) not required to be constructed according to, but complies with**

the requirements of Regulation 24 of Annex I of the Protocol.

2. This ship is:
   (*a*) required to be constructed according to and complies with**
   (*b*) not required to be constructed according to**

the requirements of Regulation 13E of Annex I of the Protocol.

---

* This Part should be completed for oil tankers including combination carriers, and those entries which are applicable should be completed for ships other than oil tankers which are constructed and utilized to carry oil in bulk of an aggregate capacity of 200 cubic metres or above.

** Delete as appropriate.

3. This ship is—

(*a*) required to be provided with segregated ballast tanks according to, and complies with*

(*b*) not required to be provided with segregated ballast tanks according to*

(*c*) not required to be provided with segregated ballast tanks according to, but complies with*

(*d*) in accordance with Regulation 13C or 13D of Annex I of the Protocol, and as specified in Part C of this Certificate, exempted from*

the requirements of Regulation 13 of Annex I of the Protocol

(*e*) fitted with a cargo tank cleaning system using crude oil washing in accordance with the provisions of Regulation 13B of Annex I of the Protocol, in lieu of being provided with segregated ballast tanks*

(*f*) provided with dedicated clean ballast tanks in accordance with the provisions of Regulation 13A of Annex I of the Protocol, in lieu of being either provided with segregated ballast tanks or fitted with a cargo tank cleaning system using crude oil washing*

4. This ship is—

(*a*) required to be fitted with a cargo tank cleaning system using crude oil washing according to, and complies with*

(*b*) not required to be fitted with a cargo tank cleaning system using crude oil washing according to*

the requirements of Regulation 13 (6) of Annex I of the Protocol.

*Segregated ballast tanks***

The segregated ballast tanks are distributed as follows:

Tank	*Volume* (m^3)	*Tank*	*Volume* (m^3)

*Dedicated Clean Ballast Tanks***

This ship is operating with dedicated clean ballast tanks until ..... *(date)*
in accordance with the requirement of Regulation 13A of Annex I of the Protocol.

The dedicated clean ballast tanks are designated as follows:

Tank	*Volume* (m^3)	*Tank*	*Volume* (m^3)

*Manual**

This is to certify that this ship has been supplied with—

(*a*) a valid Dedicated Clean Ballast Tank Operation Manual in accordance with Regulation 13A of Annex I of the Protocol**

(*b*) a valid Operations and Equipment Manual for Crude Oil Washing in accordance with Regulation 13B of Annex I of the Protocol**

---

* Delete as appropriate.

** Delete if not applicable.

Identification of the valid Manual .....

Signed .....
(Signature of duly authorized official)

Place.....

Date .....

(Seal or stamp of the Authority, as appropriate)

Identification of the valid Manual .....

Signed .....
(Signature of duly authorized official)

Place.....

Date .....

(Seal or stamp of the Authority, as appropriate)

---

* Delete if not applicable.
**Delete as appropriate.

PART C EXEMPTIONS*

This is to certify that this ship is—

(*a*) solely engaged in trade between .....

and ..... in accordance with Regulation 13C of Annex I of the Protocol**; or

(*b*) operating with special ballast arrangements in accordance with Regulation 13D of Annex I of the Protocol**

and is therefore exempted from the requirements of Regulation 13 of Annex I of the Protocol.

Signed .....
(Signature of duly authorized official)

Place.....

Date .....

(Seal or stamp of the Authority, as appropriate)

---

* Delete if not applicable.
**Delete as appropriate.

THIS IS TO CERTIFY:

That the ship has been surveyed in accordance with Regulation 4 of Annex I of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, concerning the prevention of pollution by oil; and

That the survey shows that the structure, equipment, systems, fittings, arrangement and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex I of that Protocol.

This Certificate is valid until .....

subject to intermediate
survey(s) at intervals of.....

Issued at .....
(Place of issue of Certificate)

.....19..... .....
(Signature of duly authorized official)

(Seal or stamp of the Authority, as appropriate)

Intermediate Survey

This is to certify that at an intermediate survey required by Regulation 4 (1) (*c*) of Annex I of the Protocol 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, this ship and the condition thereof were found to comply with the relevant provisions of that Protocol.

Signed .....
(Signature of duly authorized official)

Place.....

Date .....

Next intermediate survey due .....

(Seal or stamp of the Authority, as appropriate)

Signed .....
(Signature of duly authorized official)

Place.....

Date .....

Next intermediate survey due .....

(Seal or stamp of the Authority, as appropriate)

Signed .....
(Signature of duly authorized official)

Place.....

Date .....

Next intermediate survey due .....

(Seal or stamp of the Authority, as appropriate)

Signed .....
(Signature of duly authorized official)

Place.....

Date .....

(Seal or stamp of the Authority, as appropriate)

Appendix III

FORM OF OIL RECORD BOOK

The following forms of Supplements to the Oil Record Book are added to the existing form:

Supplement 1

FORM OF SUPPLEMENT TO OIL RECORD BOOK FOR OIL TANKERS OPERATED WITH DEDICATED CLEAN BALLAST TANKS*

Name of ship .....

Distinctive numbers or letters .....

Total cargo carrying capacity ..... cubic metres

Total dedicated clean ballast capacity ..... cubic metres

The following tanks are designated as dedicated clean ballast tanks:

Tank	*Volume (m^3)*	*Tank*	*Volume (m^3)*

NOTE: The periods covered by the Supplement should be consistent with the periods covered by the Oil Record Book.

* This Supplement should be attached to the Oil Record Book for oil tankers operating with dedicated clean ballast tanks in accordance with Regulation 13A of Annex I of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973. Other information as required should be entered in the Oil Record Book.

(A) *Ballasting of dedicated clean ballast tanks*

101. Identity of tank(s) ballasted			
102. Date and position of ship when water intended for flushing, or port ballast was taken to dedicated clean ballast tank(s)			
103. Date and position of ship when pump(s) and lines were flushed to slop tank			
104. Date and position of ship when additional ballast water was taken to dedicated clean ballast tank(s)			
105. Date, time and position of ship when (*a*) valves to slop tank, (*b*) valves to cargo tanks, (*c*) other valves affecting the clean ballast system were closed			
106. Quantity of clean ballast taken on board			

The undersigned certifies that, in addition to the above, all sea valves, cargo tank and pipeline connexions and connexions between tanks or inter-tank connexions, were secured on the completion of ballasting of dedicated clean ballast tanks.

Date of entry ..... Officer in charge .....

Master .....

(B) *Discharge of clean ballast*

107. Identity of tank(s)			
108. Date, time and position of ship at start of discharge of clean ballast (*a*) to sea, or (*b*) into reception facility			
109. Date, time and position of ship upon completion of discharge to sea			
110. Quantity discharged (*a*) to sea, or (*b*) into reception facility			
111. Was the ballast water checked for oil contamination before discharge?			
112. Was the discharge monitored during discharge by an oil content meter?			
113. Was there any indication of oil contamination of the ballast water before or during discharge?			
114. Date and position of ship when pump and lines were flushed after loading			
115. Date, time and position of ship when (*a*) valves to slop tank, (*b*) valves to cargo tanks, (*c*) other valves affecting the clean ballast system were closed			
116. Quantity of polluted water transferred to slop tank(s). (Identify slop tank(s))			

The undersigned certifies that, in addition to the above, all sea valves overboard discharge valves, cargo tank and pipeline connexions and connexions between tanks or inter-tank connexions, were secured on completion of discharge of clean ballast and that the pump(s) and pipes designated for clean ballast operations were properly cleaned upon completion of discharge of clean ballast.

Date of entry..... Officer in charge.....

Master.....

Supplement 2

FORM OF SUPPLEMENT TO OIL RECORD BOOK FOR CRUDE OIL TANKERS OPERATING WITH A CARGO TANK CLEANING PROCEDURE USING CRUDE OIL WASHING*

Name of ship .....

Distinctive number or letters .....

Total cargo carrying capacity ..... cubic metres

Voyage from .... to ....
(Port(s)) *(date)* *(Port(s))* *(date)*

NOTES: The periods covered by the Supplement should be consistent with the periods covered by the Oil Record Book.

The cargo tanks crude oil washed should be those laid down in the Operations and Equipment Manual required by Regulation 13B (5) (*a*) of the Protocol.

A separate column should be used for each tank washed or water rinsed.

* This Supplement should be attached to the Oil Record Book for crude oil tankers operating with a cargo tank cleaning procedure using crude oil washing in accordance with Regulation 13B of Annex I of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and is intended to replace Section (*e*) of the Oil Record Book. Details of ballasting and deballasting and other information required should be entered in the Oil Record Book.

(A) *Crude oil washing*

201. Date when and port where crude oil washing was carried out or ship's position if carried out between two discharge ports				
202. Identity of tank(s) washed (see Note 1)				
203. Number of machines in use				
204. Commenced washing (*a*) date and time (*b*) ullage				
205. Washing pattern employed (see Note 2)				
206. Washing line pressure				
207. Completed or stopped washing (*a*) date and time (*b*) ullage				
208. Remarks				

The tanks were washed in accordance with programmes given in the Operations and Equipment Manual (see Note 3) and confirmed dry on completion.

Date of entry ..... Officer in charge .....

Master .....

Note 1 When an individual tank has more machines than can be operated simultaneously, as described in the Operations and Equipment Manual, then the section being crude oil washed should be identified, e.g. No. 2 centre, forward section.

Note 2 In accordance with the Operations and Equipment Manual, enter whether single-stage or multi-stage method of washing is employed. If multi-stage method is used, give the vertical arc covered by the machines and the number of times that arc is covered for that particular stage of the programme.

Note 3 If the programmes given in the Operations and Equipment Manual are not followed, then details must be given under Remarks.

(B) *Water rinsing or flushing of tank bottoms*

209. Date and position of ship when rinsing or flushing was carried out				
210. Identity of tank(s) and date				
211. Volume of water used				
212. Transferred to— (*a*) reception facilities (*b*) slop tank(s) (identify slop tank(s))				

Date of entry ..... Officer in charge .....

Master .....

Supplement 3

FORM OF SUPPLEMENT TO OIL RECORD BOOK FOR OIL TANKERS ENGAGED IN SPECIFIC TRADES*

Name of ship .....

Distinctive number or letters .....

Total cargo carrying capacity ..... cubic metres

Total ballast water capacity required for compliance with Regulation 13 (2) and (3) of Annex I of the Protocol ..... cubic metres

Voyages from ..... to .....
(Port(s)) *(Port(s))*

NOTE: The periods covered by the Supplement should be consistent with the periods covered by the Oil Record Book.

* This Supplement should be attached to the Oil Record Book for oil tankers engaged in specific trades in accordance with Regulation 13C of Annex I of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and is intended to replace Sections (*d*), (*f*), (*g*) and (*i*) of the Oil Record Book. Other information required should be entered in the Oil Record Book.

(A) *Loading of ballast water*

301. Identity of tank(s) ballasted				
302. Date and position of ship when ballasted				
303. Total quantity of ballast loaded in cubic metres				
304. Method of calculating ballast quantity				
305. Remarks				
306. Date and signature of officer in charge				
307. Date and signature of Master				

(B) *Re-allocation of ballast water within the ship*

308. Reason for re-allocation				
309. Date and signature of officer in charge				
310. Date and signature of Master				

(C) *Ballast water discharge to reception facility*

311. Date and port(s) where ballast water was discharged				
312. Name or designation of reception facility				
313. Total quantity of ballast water discharged in cubic metres				
314. Method of calculating ballast quantity				
315. Date and signature of officer in charge				
316. Date and signature of Master				
317. Date, signature and stamp of port authority official				

Annex II

REGULATIONS FOR THE CONTROL OF POLLUTION BY NOXIOUS LIQUID SUBSTANCES IN BULK

No change

SCHEDULE 3 Section 3

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

NOTING the functions which Article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and resolution A.297 (VIII) confer on the Marine Environment Protection Committee for the consideration and adoption of amendments to the 1973 Convention,

NOTING FURTHER Article VI of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1978 Protocol"),

HAVING CONSIDERED at its twentieth session amendments to the 1978 Protocol proposed and circulated in accordance with Article 16 (2) (*a*) of the 1973 Convention,

1. ADOPTS in accordance with Article 16 (2) (*d*) of the 1973 Convention amendments to the Annex of the 1978 Protocol, the text of which is set out in the Annex to the present resolution;

2. DETERMINES in accordance with Article 16 (2) (*f*) (iii) of the 1973 Convention that the amendments shall be deemed to have been accepted on 7 July 1985 unless prior to this date one third or more of the Parties or the Parties, the combined merchant fleets of which constitute fifty per cent or more of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES the Parties to note that in accordance with Article 16 (2) (*g*) (ii) of the 1973 Convention the amendments shall enter into force on 7 January 1986 upon their acceptance in accordance with paragraph 2 above;

4. REQUESTS the Secretary-General in conformity with Article 16 (2) (*e*) of the 1973 Convention to transmit to all Parties to the 1978 Protocol certified copies of the present resolution and the text of the amendments contained in the Annex;

5. FURTHER REQUESTS the Secretary-General to transmit to the Members of the Organization which are not Parties to the 1978 Protocol copies of the resolution and its Annex.

Annex

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

Annex I

REGULATIONS FOR THE PREVENTION OF POLLUTION BY OIL

Regulation 1

Definitions

The existing texts of paragraphs (26) and (27) are replaced by the following:

'(26) Notwithstanding the provisions of paragraph (6) of this Regulation, for the purposes of Regulations 13, 13B, 13E and 18 (4) of this Annex, "new oil tanker" means an oil tanker—

(*a*) for which the building contract is placed after 1 June 1979; or

(*b*) in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction after 1 January 1980; or

(*c*) the delivery of which is after 1 June 1982; or

(*d*) which has undergone a major conversion—

(i) for which the contract is placed after 1 June 1979; or

(ii) in the absence of a contract, the construction work of which is begun after 1 January 1980; or

(iii) which is completed after 1 June 1982—

except that, for oil tankers of 70,000 tons deadweight and above, the definition in paragraph (6) of this Regulation shall apply for the purposes of Regulation 13 (1) of this Annex.

(27) Notwithstanding the provisions of paragraph (7) of this Regulation, for the purposes of Regulations 13, 13A, 13B, 13C, 13D, 18 (5) and 18 (6) (*c*) of this Annex, "existing oil tanker" means an oil tanker which is not a new oil tanker as defined in paragraph (26) of this Regulation.'.

Regulation 9

Control of Discharge of Oil

The existing text of sub-paragraph (1) (a) (vi) is replaced by the following:

"(vi) the tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by Regulation 15 of this Annex.".

The existing text of sub-paragraph (1) (b) (v) is replaced by the following:

"(v) the ship has in operation an oil discharge monitoring and control system, oily-water separating equipment, oil filtering equipment or other installation as required by Regulation 16 of this Annex.".

The existing text of paragraph (4) is replaced by the following:

"(4) The provisions of paragraph (1) of this Regulation shall not apply to the discharge of clean or segregated ballast or unprocessed oily mixtures which without dilution have an oil content not exceeding 15 parts per million and which do not originate from cargo pump-room bilges and are not mixed with oil cargo residues. The provisions of sub-paragraph (1) (*b*) of this Regulation shall not apply to the discharge of the processed oily mixture, provided that all of the following conditions are satisfied:

(*a*) The oily mixture does not originate from cargo pump-room bilges;

(*b*) The oily mixture is not mixed with oil cargo residues;

(*c*) The oil content of the effluent without dilution does not exceed 15 parts per million; and

(*d*) The ship has in operation oil filtering equipment complying with Regulation 16 (7) of this Annex.".

Regulation 10

Methods for the Prevention of Oil Pollution from Ships while Operating in Special Areas

The existing texts of paragraphs (2), (3) and (4) are replaced by the following:

"(2) Subject to the provisions of Regulation 11 of this Annex—

(*a*) any discharge into the sea of oil or oily mixture from any oil tanker and any ship of 400 tons gross tonnage and above other than an oil tanker shall be prohibited while in a special area;

(*b*) any discharge into the sea of oil or oily mixture from a ship of less than 400 tons gross tonnage, other than an oil tanker, shall be prohibited while in a special area, except when the oil content of the effluent without dilution does not exceed 15 parts per million or alternatively when all of the following conditions are satisfied:

(i) The ship is proceeding en route;

(ii) The oil content of the effluent is less than 100 parts per million; and

(iii) The discharge is made as far as practicable from the land, but in no case less than 12 nautical miles from the nearest land.

(3) (*a*) The provisions of paragraph (2) of this Regulation shall not apply to the discharge of clean or segregated ballast.

(*b*) The provisions of sub-paragraph (2) (*a*) of this Regulation shall not apply to the discharge of processed bilge water from machinery spaces, provided that all the following conditions are satisfied:

(i) The bilge water does not originate from cargo pump-room bilges;

(ii) The bilge water is not mixed with oil cargo residues;

(iii) The ship is proceeding en route;

(iv) The oil content of the effluent without dilution does not exceed 15 parts per million;

(v) The ship has in operation oil filtering equipment complying with Regulation 16 (7) of this Annex; and

(vi) The filtering system is equipped with a stopping device which will ensure that the discharge is automatically stopped when the oil content of the effluent exceeds 15 parts per million.

(4) (*a*) No discharge into the sea shall contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Regulation.

(*b*) The oil residues which cannot be discharged into the sea in compliance with paragraph (2) or (3) of this Regulation shall be retained on board or discharged to reception facilities.

Regulation 13

Segregated Ballast Tanks, Dedicated Clean Ballast Tanks and Crude Oil Washing

The existing text of paragraph (3) is replaced by the following:

"(3) In no case shall ballast water be carried in cargo tanks, except—

(*a*) on those rare voyages when weather conditions are so severe that, in the opinion of the master, it is necessary to carry additional ballast water in cargo tanks for the safety of the ship;

(*b*) in exceptional cases where the particular character of the operation of an oil tanker renders it necessary to carry ballast water in excess of the quantity required under paragraph (2) of this Regulation, provided that such operation of the oil tanker falls under the category of exceptional cases as established by the Organization.

Such additional ballast water shall be processed and discharged in compliance with Regulation 9 of this Annex and in accordance with the requirements of Regulation 15 of this Annex and an entry shall be made in the Oil Record Book referred to in Regulation 20 of this Annex.".

Regulation 13A

Requirements for Oil Tankers with Dedicated Clean Ballast Tanks

Paragraph (4) (b) is deleted and paragraph (4) (a) is renumbered as (4).

Regulation 13B

Requirements for Crude Oil Washing

The following words are added to the end of paragraph (3):

"and as may be further amended.".

Paragraph (5) (b) is deleted and paragraph (5) (a) is renumbered as (5).

Regulation 13C

Existing Tankers Engaged in Specific Trades

The first phrase of paragraph (1) is amended to read as follows:

"(1) Subject to the provisions of paragraph (2) of this Regulation, Regulation 13 (7) to (10) of this Annex shall not apply to an existing oil tanker solely engaged in specific trades between:".

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

"(*a*) subject to the exceptions provided for in Regulation 11 of this Annex, all ballast water, including clean ballast water, and tank washing residues are retained on board and transferred to the reception facilities and the appropriate entry in the Oil Record Book referred to in Regulation 20 of this Annex is endorsed by the competent Port State Authority;".

Paragraph (3) is deleted.

Regulation 14

The title of the Regulation is replaced by the following:

"Segregation of Oil and Water Ballast and Carriage of Oil in Forepeak Tanks"

The following new paragraphs are added to the existing text:

"(4) In a ship of 400 tons gross tonnage and above, for which the building contract is placed after 1 January 1982 or, in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction after 1 July 1982, oil shall not be carried in a forepeak tank or a tank forward of the collision bulkhead.

(5) All ships other than those subject to paragraph (4) of this Regulation shall comply with the provisions of that paragraph, as far as is reasonable and practicable.".

Regulation 15

Retention of Oil on board

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

"(*c*) The arrangements of the slop tank or combination of slop tanks shall have a capacity necessary to retain the slop generated by tank washings, oil residues and dirty ballast residues. The total capacity of the slop tank or tanks shall not be less than 3 per cent of the oil carrying capacity of the ships, except that the Administration may accept—

(i) 2 per cent for such oil tankers where the tank washing arrangements are such that once the slop tank or tanks are charged with washing water, this water is sufficient for tank washing and, where applicable, for providing the driving fluid for eductors, without the introduction of additional water into the system;

(ii) 2 per cent where segregated ballast tanks or dedicated clean ballast tanks are provided in accordance with Regulation 13 of this Annex, or where a cargo tank cleaning system using crude oil washing is fitted in accordance with Regulation 13B of this Annex. This capacity may be further reduced to 1.5 per cent for such oil tankers where the tank washing arrangements are such that once the slop tank or tanks are charged with washing water, this water is sufficient for tank washing and, where applicable, for providing the driving fluid for eductors, without the introduction of additional water into the system;

(iii) 1 per cent for combination carriers where oil cargo is only carried in tanks with smooth walls. This capacity may be further reduced to 0.8 per cent where the tank washing arrangements are such that once the slop tank or tanks are charged with washing water, this water is sufficient for tank washing and, where applicable, for providing the driving fluid for eductors, without the introduction of additional water into the system.

New oil tankers of 70,000 tons deadweight and above shall be provided with at least two slop tanks.".

The last sentence of the existing text of paragraph (3) (a) is replaced by the following:

"(*a*) The oil discharge monitoring and control system shall be designed and installed in compliance with the Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers developed by the Organization.* Administrations may accept such specific arrangements as detailed in the Guidelines and Specifications.".

The following footnote is added to paragraph (3) (a):

"* Reference is made to the Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers adopted by the Organization by Resolution A.496 (XII).".

The existing text of paragraph (5) is replaced by the following:

"(5) (*a*) The Administration may waive the requirements of paragraphs (1), (2) and (3) of this Regulation for any oil tanker which engages exclusively on voyages both of 72 hours or less in duration and within 50 miles from the nearest land, provided that the oil tanker is engaged exclusively in trades between ports or terminals within a State Party to the present Convention. Any such waiver shall be subject to the requirement that the oil tankers shall retain on board all oily mixtures for subsequent discharge to reception facilities and to the determination by the Administration that facilities available to receive such oily mixtures are adequate.

(*b*) The Administration may waive the requirements of paragraph (3) of this Regulation for oil tankers other than those referred to in sub-paragraph (*a*) of this paragraph in cases where—

(i) the tanker is an existing oil tanker of 40,000 tons deadweight or above, as referred to in Regulation 13C (1) of this Annex, engaged in specific trades, and the conditions specified in Regulation 13C (2) are complied with; or

(ii) the tanker is engaged exclusively in one or more of the following categories of voyages:

(1) Voyages within special areas; or

(2) Voyages within 50 miles from the nearest land outside special areas where the tanker is engaged in—

(*aa*) trades between ports or terminals of a State Party to the present Convention; or

(*bb*) restricted voyages as determined by the Administration, and of 72 hours or less in duration—

provided that all of the following conditions are complied with:

(3) All oily mixtures are retained on board for subsequent discharge to reception facilities;

(4) For voyages specified in sub-paragraph (*b*) (ii) (2) of this paragraph, the Administration has determined that adequate reception facilities are available to receive such oily mixtures in those oil loading ports or terminals the tanker calls at;

(5) The International Oil Pollution Prevention Certificate, when required, is endorsed to the effect that the ship is exclusively engaged in one or more of the categories of voyages specified in sub-paragraphs (*b*) (ii) (1) and (*b*) (ii) (2) (*bb*) of this paragraph; and

(6) the quantity, time, and port of the discharge are recorded in the Oil Record Book.".

The existing text of paragraph (7) is replaced by the following:

"(7) The requirements of paragraphs (1), (2) and (3) of this Regulation shall not apply to oil tankers carrying asphalt or other products subject to the provisions of this Annex, which through their physical properties inhibit effective product/water separation and monitoring, for which the control of discharge under Regulation 9 of this Annex shall be effected by the retention of residues on board with discharge of all contaminated washings to reception facilities.".

Regulation 16

The existing text of Regulation 16 is replaced by the following:

"Oil Discharge Monitoring and Control System and Oily-Water Separating and Oil Filtering Equipment

(1) Any ship of 400 tons gross tonnage and above but less than 10,000 tons gross tonnage shall be fitted with oily-water separating equipment (100 ppm equipment) complying with paragraph (6) of this Regulation. Any such ship which carries large quantities of oil fuel shall comply with paragraph (2) of this Regulation or paragraph (1) of Regulation 14.

(2) Any ship of 10,000 tons gross tonnage and above shall be fitted either—

(*a*) with oily-water separating equipment (100 ppm equipment) complying with paragraph (6) of this Regulation and with an oil discharge monitoring and control system complying with paragraph (5) of this Regulation; or

(*b*) with oil filtering equipment (15 ppm equipment) complying with paragraph (7) of this Regulation.

(3) (*a*) The Administration may waive the requirements of paragraphs (1) and (2) of this Regulation for any ship engaged exclusively on—

(i) voyages within special areas; or

(ii) voyages within 12 miles of the nearest land outside special areas, provided the ship is in—

(1) trade between ports or terminals within a State Party to the present Convention; or

(2) restricted voyages as determined by the Administration—

provided that all of the following conditions are complied with:

(iii) The ship is fitted with a holding tank having a volume adequate, to the satisfaction of the Administration, for the total retention on board of the oily bilge water;

(iv) All oily bilge water is retained on board for subsequent discharge to reception facilities;

(v) The Administration has determined that adequate reception facilities are available to receive such oily bilge water in a sufficient number of ports or terminals the ship calls at;

(vi) The International Oil Pollution Prevention Certificate, when required, is endorsed to the effect that the ship is exclusively engaged on the voyages specified in sub-paragraph (*a*) (i) or (*a*) (ii) (2) of this paragraph; and

(vii) The quantity, time, and port of the discharge are recorded in the Oil Record Book.

(*b*) The Administration shall ensure that ships of less than 400 tons gross tonnage are equipped, as far as practicable, to retain on board oil or oily mixtures or discharge them in accordance with the requirements of Regulation 9 (1) (*b*) of this Annex.

(4) For existing ships the requirements of paragraphs (1), (2) and (3) of this Regulation shall apply three years after the date of entry into force of the present Convention.

(5) An oil discharge monitoring and control system shall be of a design approved by the Administration. In considering the design of the oil content meter to be incorporated into the system, the Administration shall have regard to the specification recommended by the Organization.* The system shall be fitted with a recording device to provide a continuous record of the oil content in parts per million. This record shall be identifiable as to time and date and shall be kept for at least three years. The system shall come into operation when there is any discharge of effluent into the sea and shall be such as will ensure that any discharge of oily mixture is automatically stopped when the oil content of effluent exceeds that permitted by Regulation 9 (1) (*b*) of this Annex. Any failure of the system shall stop the discharge and be noted in the Oil Record Book. The defective unit shall be made operable before the ship commences its next voyage unless it is proceeding to a repair port. Existing ships shall comply with all of the provisions specified above except that the stopping of the discharge may be performed manually.

(6) Oily-water separating equipment referred to in paragraphs (1) and (2) (*a*) of this Regulation shall be of a design approved by the Administration and shall be such as will ensure that any oily mixture discharged into the sea after passing through the system has an oil content of less than 100 parts per million. In considering the design of such equipment, the Administration shall have regard to the specification recommended by the Organization.*

(7) Oil filtering equipment referred to in paragraph (2) (*b*) of this Regulation shall be of a design approved by the Administration and shall be such as will ensure that any oily mixture discharged into the sea after passing through the system or systems has an oil content not exceeding 15 parts per million. It shall be provided with alarm arrangements to indicate when this level cannot be maintained. In considering the design of such equipment, the Administration shall have regard to the specification recommended by the Organization.* In the case of ships less than 10,000 tons gross tonnage, other than those carrying large quantities of oil fuel or those discharging bilge water under Regulation 10 (3) (*b*), which are provided with oil filtering equipment in lieu of oily-water separating equipment, the requirements for the alarm arrangements shall be complied with as far as reasonable and practicable.".

The following footnote is added to paragraphs (5), (6) *and* (7) *of Regulation* 16:

"*Reference is made to the Recommendation on International Performance and Test Specifications for Oily-Water Separating Equipment and Oil Content Meters adopted by the Organization by Resolution A.393(X).".

Regulation 18

Pumping, Piping and Discharge Arrangements of Oil Tankers

The existing text of Regulation 18 *is replaced by the following:*

"(1) In every oil tanker, a discharge manifold for connexion to reception facilities for the discharge of dirty ballast water or oil contaminated water shall be located on the open deck on both sides of the ship.

(2) In every oil tanker, pipelines for the discharge to the sea of ballast water or oil contaminated water from cargo tank areas which may be permitted under Regulation 9 or Regulation 10 of this Annex shall be led to the open deck or to the ship's side above the waterline in the deepest ballast condition. Different piping arrangements to permit operation in the manner permitted in sub-paragraphs (6) (*a*) to (*e*) of this Regulation may be accepted.

(3) In new oil tankers means shall be provided for stopping the discharge into the sea of ballast water or oil contaminated water from cargo tank areas other than those discharges below the waterline permitted under paragraph (6) of this Regulation, from a position on the upper deck or above located so that the manifold in use referred to in paragraph (1) of this Regulation and the discharge to the sea from the pipelines referred to in paragraph (2) of this Regulation may be visually observed. Means for stopping the discharge need not be provided at the observation position if a positive communication system such as a telephone or radio system is provided between the observation position and the discharge control position.

(4) Every new oil tanker required to be provided with segregated ballast tanks or fitted with a crude oil washing system shall comply with the following requirements:

(*a*) It shall be equipped with oil piping so designed and installed that oil retention in the lines is minimized; and

(*b*) Means shall be provided to drain all cargo pumps and all oil lines at the completion of cargo discharge, where necessary by connexion to a stripping device. The line and pump drainings shall be capable of being discharged both ashore and to a cargo tank or a slop tank. For discharge ashore a special small diameter line shall be provided and shall be connected outboard of the ship's manifold valves.

(5) Every existing crude oil tanker required to be provided with segregated ballast tanks, or to be fitted with a crude oil washing system, or to operate with dedicated clean ballast tanks, shall comply with the provisions of paragraph (4) (*b*) of this Regulation.

(6) On every oil tanker the discharge of ballast water or oil contaminated water from cargo tank areas shall take place above the waterline, except as follows:

(*a*) Segregated ballast and clean ballast may be discharged below the waterline—

(i) in ports or at offshore terminals, or

(ii) at sea by gravity,

provided that the surface of the ballast water has been examined immediately before the discharge to ensure that no contamination with oil has taken place.

(*b*) Existing oil tankers which, without modification, are not capable of discharging segregated ballast above the waterline may discharge segregated ballast below the waterline at sea, provided that the surface of the ballast water has been examined immediately before the discharge to ensure that no contamination with oil has taken place.

(*c*) Existing oil tankers operating with dedicated clean ballast tanks, which without modification are not capable of discharging ballast water from dedicated clean ballast tanks above the waterline, may discharge this ballast below the waterline provided that the discharge of the ballast water is supervised in accordance with Regulation 13A (3) of this Annex.

(*d*) On every oil tanker at sea, dirty ballast water or oil contaminated water from tanks in the cargo area, other than slop tanks, may be discharged by gravity below the waterline, provided that sufficient time has elapsed in order to allow oil/water separation to have taken place and the ballast water has been examined immediately before the discharge with an oil/water interface detector referred to in Regulation 15 (3) (*b*) of this Annex, in order to ensure that the height of the interface is such that the discharge does not involve any increased risk of harm to the marine environment.

(*e*) On existing oil tankers at sea, dirty ballast water or oil contaminated water from cargo tank areas may be discharged below the waterline, subsequent to or in lieu of the discharge by the method referred to in sub-paragraph (*d*) of this paragraph, provided that—

(i) a part of the flow of such water is led through permanent piping to a readily accessible location on the upper deck or above where it may be visually observed during the discharge operation; and

(ii) such part flow arrangements comply with the requirements established by the Administration, which shall contain at least all the provisions of the Specifications for the Design, Installation and Operation of a Part Flow System for Control of Overboard Discharges adopted by the Organization.".

Regulation 20

Oil Record Book

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

"(1) Every oil tanker of 150 tons gross tonnage and above and every ship of 400 tons gross tonnage and above other than an oil tanker shall be provided with an Oil Record Book Part I (Machinery Space Operations). Every oil tanker of 150 tons gross tonnage and above shall also be provided with an Oil Record Book Part II (Cargo/Ballast Operations). The Oil Record Book(s), whether as a part of the ship's official log book or otherwise, shall be in the Form(s) specified in Appendix III to this Annex.

(2) The Oil Record Book shall be completed on each occasion, on a tank to tank basis if appropriate, whenever any of the following operations take place in the ship:

(*a*) For machinery space operations (all ships)—

(i) ballasting or cleaning of oil fuel tanks;

(ii) discharge of dirty ballast or cleaning water from tanks referred to under (i) of the sub-paragraph;

(iii) disposal of oily residues (sludge);

(iv) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces.

(*b*) For cargo/ballast operations (oil tankers)—

(i) loading of oil cargo;

(ii) internal transfer of oil cargo during voyage;

(iii) unloading of oil cargo;

(iv) ballasting of cargo tanks and dedicated clean ballast tanks;

(v) cleaning of cargo tanks including crude oil washing;

(vi) discharge of ballast except from segregated ballast tanks;

(vii) discharge of water from slop tanks;

(viii) closing of all applicable valves or similar devices after slop tank discharge operations;

(ix) closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations;

(x) disposal of residues.".

The second sentence of paragraph (4) is replaced by the following:

"Each completed operation shall be signed by the officer or officers in charge of the operations concerned and each completed page shall be signed by the master of the ship.".

The following new paragraph is added to the existing text:

"(7) For oil tankers of less than 150 tons gross tonnage operating in accordance with Regulation 15 (4) of this Annex an appropriate Oil Record Book should be developed by the Administration.".

Regulation 21

Special Requirements for Drilling Rigs and other Platforms

The following new sub-paragraph is added to the existing text:

"(*d*) Outside special areas and more than 12 nautical miles from the nearest land and subject to the provisions of Regulation 11 of this Annex, the discharge from such drilling rigs and platforms when stationary into the sea of oil or oily mixtures shall be prohibited except when the oil content of the discharges without dilution does not exceed 100 parts per million unless there are appropriate national regulations which are more stringent, in which case the appropriate national regulations shall apply.".

Regulation 25

Subdivision and Stability

The existing text of sub-paragraph (a) of paragraph (2) is replaced by the following and sub-paragraphs (b), (c) and (d) are renumbered as (d), (e) and (f):

"(*a*) Side damage

(i) Longitudinal extent	1/3 ($L^{2/3}$) or 14.5 metres, whichever is less
(ii) Transverse extent (Inboard from the ship's side at right angles to the centreline at the level of the summer load line)	B/5 or 11.5 metres, whichever is less
(iii) Vertical extent	From the moulded line of the bottom shell plating at centreline, upwards without limit

(*b*) Bottom damage	For 0.3L from the forward perpendicular of the ship	Any other part of the ship
(i) Longitudinal extent	1/3 ($L^{2/3}$) or 14.5 metres, whichever is less	1/3 ($L^{2/3}$) or 5 metres, whichever is less
(ii) Transverse extent	B/6 or 10 metres, whichever is less	B/6 or 5 metres, whichever is less
(iii) Vertical extent	B/15 or 6 metres, whichever is less, measured from the moulded line of the bottom shell plating at centreline	B/15 or 6 metres, whichever is less, measured from the moulded line of the bottom shell plating at centreline

(*c*) If any damage of a lesser extent than the maximum extent of damage specified in sub-paragraphs (*a*) and (*b*) of this paragraph would result in a more severe condition, such damage shall be considered.".

The existing text of sub-paragraph (3) (c) is replaced by the following:

"(*c*) The stability in the final stage of flooding shall be investigated and may be regarded as sufficient if the righting lever curve has at least a range of 20 degrees beyond the position of equilibrium in association with a maximum residual righting lever of at least 0.1 metre within the 20 degrees range; the area under the curve within this range shall not be less than 0.0175 metre radians. Unprotected openings shall not be immersed within this range unless the space concerned is assumed to be flooded. Within this range, the immersion of any of the openings listed in sub-paragraph (*a*) of this paragraph and other openings capable of being closed weathertight may be permitted.".

The following new sub-paragraph is added to the existing text of paragraph (3):

"(*e*) Equalization arrangements requiring mechanical aids such as valves or cross-levelling pipes, if fitted, shall not be considered for the purpose of reducing an angle of heel or attaining the minimum range of residual stability to meet the requirements of sub-paragraphs (*a*), (*b*) and (*c*) of this paragraph and sufficient residual stability shall be maintained during all stages where equalization is used. Spaces which are linked by ducts of a large cross-sectional area may be considered to be common."

The existing text of paragraph (4) (b) is replaced by the following:

"(*b*) The permeabilities assumed for spaces flooded as a result of damage shall be as follows:

Spaces	*Permeabilities*
Appropriated to stores	0.60
Occupied by accommodation	0.95
Occupied by machinery	0.85
Voids	0.95
Intended for consumable liquids	0 to 0.95*
Intended for other liquids	0 to 0.95*

* The permeability of partially filled compartments shall be consistent with the amount of liquid carried in the compartment. Whenever damage penetrates a tank containing liquids, it shall be assumed that the contents are completely lost from that compartment and replaced by salt water up to the level of the final plane of equlibrium.".

The first phrase of paragraph (5) is amended to read—

"(5) The Master of every new oil tanker and the person in charge of a new non-self-propelled oil tanker to which this Annex applies shall be supplied in an approved form with:".

Appendix II

The existing form of Certificate is replaced by the following forms:

"FORMS OF CERTIFICATE AND SUPPLEMENTS

INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE

(Note: This Certificate shall be supplemented by a Record of Construction and Equipment)

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as "the Convention") under the authority of the Government of:

.....

(full designation of the country)

by .....

(full designation of the competent person or organization authorized under the provisions of the Convention)

Name of ship	*Distinctive number or letters*	*Port of registry*	*Gross tonnage*

Type of ship:

Oil tanker*

Ship other than an oil tanker with cargo tanks coming under Regulation 2 (2) of Annex I of the Convention*

Ship other than any of the above*

* Delete as appropriate.

THIS IS TO CERTIFY:

1. That the ship has been surveyed in accordance with Regulation 4 of Annex I of the Convention; and
2. That the survey shows that the structure, equipment, systems, fittings, arrangement and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex I of the Convention.

This Certificate is valid until .....

subject to surveys in accordance with Regulation 4 of Annex I of the Convention.

Issued at.....
(Place of issue of Certificate)

.....19..... .....
(Date of issue) *(Signature of duly authorized official issuing the Certificate)*

(Seal or stamp of the Authority, as appropriate)

ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS

THIS IS TO CERTIFY that at a survey required by Regulation 4 of Annex I of the Convention the ship was found to comply with the relevant provisions of the Convention:

Annual survey:

Signed .....
(Signature of duly authorized official)

Place.....

Date.....

(Seal or stamp of the Authority, as appropriate)

Annual*/Intermediate* survey:

Signed .....
(Signature of duly authorized official)

Place.....

Date.....

(Seal or stamp of the Authority, as appropriate)

Annual */Intermediate* survey:

Signed .....
(Signature of duly authorized official)

Place.....

Date.....

(Seal or stamp of the Authority, as appropriate)

Annual survey:

Signed .....
(Signature of duly authorized official)

Place.....

Date.....

(Seal or stamp of the Authority, as appropriate)

*Delete as appropriate.

FORM A

SUPPLEMENT TO THE INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE
(IOPP CERTIFICATE)

RECORD OF CONSTRUCTION AND EQUIPMENT FOR SHIPS OTHER THAN OIL TANKERS

in respect of the provisions of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as "the Convention")

Notes:

1. This form is to be used for the third type of ships as categorized in the IOPP Certificate, i.e. "ships other than any of the above". For oil tankers and ships other than oil tankers with cargo tanks coming under Regulation 2 (2) of Annex I of the convention, Form B shall be used.
2. This Record shall be permanently attached to the IOPP Certificate. The IOPP Certificate shall be available on board the ship at all times.
3. If the language of the original Record is neither English nor French, the text shall include a translation into one of these languages.
4. Entries in boxes shall be made by inserting either a cross (x) for the answers "yes" and "applicable" or a dash (—) for the answers "no" and "not applicable" as appropriate.
5. Regulations mentioned in this Record refer to Regulations of Annex I of the Convention and resolutions refer to those adopted by the International Maritime Organization.

1 PARTICULARS OF SHIP

1.1 Name of ship .....

1.2 Distinctive number or letters .....

1.3 Port of registry .....

1.4 Gross tonnage .....

1.5 Date of build:

1.5.1 Date of building contract .....

1.5.2 Date on which keel was laid or ship was at a similar stage of construction .....

1.5.3 Date of delivery .....

1.6 Major conversion (if applicable):

1.6.1 Date of conversion contract .....

1.6.2 Date on which conversion was commenced .....

1.6.3 Date of completion of conversion .....

1.7 Status of ship:

1.7.1 New ship in accordance with Regulation 1 (6) ☐

1.7.2 Existing ship in accordance with Regulation 1 (7) ☐

1.7.3 The ship has been accepted by the Administration as an "existing ship" under Regulation 1 (7) due to unforeseen delay in delivery ☐

2 EQUIPMENT FOR THE CONTROL OF OIL DISCHARGE FROM MACHINERY SPACE BILGES AND OIL FUEL TANKS (Regulations 10 and 16)

2.1 Carriage of ballast water in oil fuel tanks:

2.1.1 The ship may under normal conditions carry ballast water in oil fuel tanks ☐

2.1.2 The ship does not under normal conditions carry ballast water in oil fuel tanks ☐

2.2 Type of separating/filtering equipment fitted:

2.2.1 Equipment capable of producing effluent with oil content less than 100 ppm; ☐

2.2.2 Equipment capable of producing effluent with oil content not exceeding 15 ppm ☐

2.3 Type of control system:

2.3.1 Discharge monitoring and control system (Regulation 16 (5))

.1 with automatic stopping device ☐
.2 with manual stopping device ☐

2.3.2 15 ppm alarm (Regulation 16 (7)) ☐

2.3.3 Automatic stopping device for discharges in special areas (Regulation 10 (3) (*b*) (vi)) ☐

2.3.4 Oil content meter (resolution A.444 (XI))

.1 with recording device ☐
.2 without recording device ☐

2.4 Approval standards:

2.4.1 The separating/filtering equipment:

.1 has been approved in accordance with resolution A.393 (X) ☐
.2 has been approved in accordance with resolution A.233 (VII) ☐
.3 has been approved in accordance with national standards not based upon resolution A.393 (X) or A.233 (VII) ☐
.4 has not been approved ☐

2.4.2 The process unit has been approved in accordance with resolution A.444 (XI) ☐

2.4.3 The oil content meter has been approved in accordance with resolution A.393 (X) ☐

2.5 Maximum throughput of the system is.....m^3/h

2.6 Application:

2.6.1 The ship is not required to be fitted with the above equipment until.....19.....* in accordance with Regulation 16 (4) ☐

3 TANKS FOR OIL RESIDUES (SLUDGE) (Regulation 17)

3.1 The ship is provided with oil residue (sludge) tanks with the total capacity of.....m^3 ☐

3.2 Means for the disposal of oil residue in addition to the provision of sludge tanks ..... ☐

4 STANDARD DISCHARGE CONNECTION (Regulation 19)

4.1 The ship is provided with a pipeline for the discharge of residues from machinery bilges to reception facilities, fitted with a standard discharge connection in accordance with Regulation 19 ☐

* Insert the date three years after the date of entry into force of the Convention.

5 EXEMPTION

5.1 Exemptions have been granted by the Administration from the requirements of Chapter II of Annex I of the Convention in accordance with Regulation 2 (4) (*a*) on those items listed under paragraph(s).....
.....of this Record.

6 EQUIVALENTS (Regulation 3)

6.1 Equivalents have been approved by the Administration for certain requirements of Annex I on those items listed under paragraph(s).....
.....of this Record.

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued at.....

(Place of issue of the Record)

..... 19..... .....

(Signature of duly authorized officer issuing the Record)

(Seal or stamp of the issuing Authority, as appropriate)

FORM B

SUPPLEMENT TO THE INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE
(IOPP CERTIFICATE)

RECORD OF CONSTRUCTION AND EQUIPMENT FOR OIL TANKERS

in respect of the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as "the Convention")

Notes:

1. This form is to be used for the first two types of ships as categorized in the IOPP Certificate, i.e. oil tankers and ships other than oil tankers with cargo tanks coming under Regulation 2 (2) of Annex I of the Convention. For the third type of ships as categorized in the IOPP Certificate, Form A shall be used.

2. This Record shall be permanently attached to the IOPP Certificate. The IOPP Certificate shall be available on board the ship at all times.

3. If the language of the original Record is neither English nor French, the text shall include a translation into one of these languages.

4. Entries in boxes shall be made by inserting either a cross (x) for the answers "yes" and "applicable" or a dash (—) for the answers "no" and "not applicable" as appropriate.

5. Regulations mentioned in this Record refer to Regulations of Annex I of the Convention and resolutions refer to those adopted by the International Maritime Organization.

1 PARTICULARS OF SHIP

1.1 Name of ship.....

1.2 Distinctive number or letters.....

1.3 Port of registry.....

1.4 Gross tonnage.....

1.5 Carrying capacity of ship ..... (m^3)

1.6 Deadweight of ship ..... (metric tons) (Regulation 1 (22))

1.7 Length of ship ..... (m) (Regulation 1 (18))

1.8 Date of build:

1.8.1 Date of building contract.....

1.8.2 Date on which keel was laid or ship was at a similar stage of construction.....

1.8.3 Date of delivery.....

1.9 Major conversion (if applicable):

1.9.1 Date of conversion contract.....

1.9.2 Date on which conversion was commenced.....

1.9.3 Date of completion of conversion.....

1.10 Status of ship:

1.10.1 New ship in accordance with Regulation 1 (6) ☐

1.10.2 Existing ship in accordance with Regulation 1 (7) ☐

1.10.3 New oil tanker in accordance with Regulation 1 (26) ☐

1.10.4 Existing oil tanker in accordance with Regulation 1 (27) ☐

1.10.5 The ship has been accepted by the Administration as an "existing ship" under Regulation 1 (7) due to unforeseen delay in delivery ☐

1.10.6 The ship has been accepted by the Administration as an "existing oil tanker" under Regulation 1 (27) due to unforeseen delay in delivery ☐

1.10.7 The ship is not required to comply with the provisions of Regulation 24 due to the unforeseen delay in delivery ☐

1.11 Type of ship:

1.11.1 Crude oil tanker ☐

1.11.2 Product carrier ☐

1.11.3 Crude oil/product carrier ☐

1.11.4 Combination carrier ☐

1.11.5 Ship, other than an oil tanker, with cargo tanks coming under Regulation 2 (2) of Annex I of the Convention ☐

1.11.6 Oil tanker dedicated to the carriage of products referred to in Regulation 15 (7) ☐

1.11.7 The ship, being designated as a "crude oil tanker" operating with COW, is also designated as a "product carrier" operating with CBT, for which a separate IOPP Certificate has also been issued ☐

1.11.8 The ship, being designated as a "product carrier" operating with CBT, is also designated as a "crude oil tanker" operating with COW, for which a separate IOPP Certificate has also been issued ☐

1.11.9 Chemical tanker carrying oil ☐

2 EQUIPMENT FOR THE CONTROL OF OIL DISCHARGE FROM MACHINERY SPACE BILGES AND OIL FUEL TANKS (Regulations 10 and 16)

2.1 Carriage of ballast water in oil fuel tanks

2.1.1 The ship may under normal conditions carry ballast water in oil fuel tanks ☐

2.1.2 The ship does not under normal conditions carry ballast water in oil fuel tanks ☐

2.2 Type of separating/filtering equipment fitted:

2.2.1 Equipment capable of producing effluent with oil content less than 100 ppm ☐

2.2.2 Equipment capable of producing effluent with oil content not exceeding 15 ppm ☐

2.3 Type of control system

2.3.1 Discharge monitoring and control system (Regulation 16 (5))

.1 with automatic stopping device ☐

.2 with manual stopping device ☐

2.3.2 15 ppm alarm (Regulation 16 (7)) ☐

2.3.3 Automatic stopping device for discharges in special areas (Regulation 10 (3) (b) (vi)) ☐

2.3.4 Oil content meter (resolution A.444 (XI))

.1 with recording device ☐

.2 without recording device ☐

2.4 Approval standards:

2.4.1 The separating/filtering system:

.1 has been approved in accordance with resolution A.393 (X) ☐

.2 has been approved in accordance with resolution A.233 (VII) ☐

.3 has been approved in accordance with national standards not based upon resolution A.393 (X) or A.233 (VII) ☐

.4 has not been approved ☐

2.4.2 The process unit has been approved in accordance with resolution A.444 (XI) ☐

2.4.3 The oil content meter has been approved in accordance with resolution A.393 (X) ☐

2.5 Maximum throughput of the system is..... m^3/h

2.6 Application:

2.6.1 The ship is not required to be fitted with the above equipment until ..... 19....* in accordance with Regulation 16 (4) ☐

3 TANKS FOR OIL RESIDUES (SLUDGE) (Regulation 17)

3.1 The ship is provided with oil residue (sludge) tanks with the total capacity of ..... m^3 ☐

3.2 Means for the disposal of oil residue in addition to the provision of sludge tanks ..... ☐

4 STANDARD DISCHARGE CONNECTION (Regulation 19)

4.1 The ship is provided with a pipeline for the discharge of residues from machinery bilges to reception facilities, fitted with a standard discharge connection in compliance with Regulation 19 ☐

5 CONSTRUCTION (Regulations 13, 24 and 25)

5.1 In accordance with the requirements of Regulation 13, the ship is

5.1.1 Required to be provided with SBT, PL and COW ☐

5.1.2 Required to be provided with SBT and PL ☐

5.1.3 Required to be provided with SBT ☐

* Insert the date three years after the date of entry into force of the Convention.

5.1.4 Required to be provided with SBT, CBT or COW ☐

5.1.5 Required to be provided with SBT or CBT ☐

5.1.6 Not required to comply with the requirements of Regulation 13 ☐

5.2 Segregated ballast tanks (SBT)

5.2.1 The ship is provided with SBT in compliance with Regulation 13 ☐

5.2.2 The ship is provided with SBT which are arranged in protective locations (PL) in compliance with Regulation 13E ☐

5.2.3 SBT are distributed as follows:

Tank	*Volume (m^3)*	*Tank*	*Volume (m^3)*
.	.	.	.
		Total	

5.3 Dedicated clean ballast tanks (CBT)

5.3.1 The ship is provided with CBT in compliance with Regulation 13A, and may operate:

.1 as a product carrier ☐

.2 as a crude oil tanker until .....19....* ☐

* Insert the date two years or four years after the date of entry into force of the Convention as appropriate.

5.3.2 CBT are distributed as follows:

Tank	*Volume (m^3)*	*Tank*	*Volume (m^3)*
.	.	.	.
		Total	

5.3.3 The ship has been supplied with a valid Dedicated Clean Ballast Tank Operation Manual, which is dated ☐

5.3.4 The ship has common piping and pumping arrangements for ballasting the CBT and handling cargo oil ☐

5.3.5 The ship has separate independent piping and pumping arrangements for ballasting the CBT ☐

5.4 Crude oil washing (COW)

5.4.1 The ship is equipped with a COW system in compliance with Regulation 13B ☐

5.4.2 The ship is equipped with a COW system in compliance with Regulation 13B except that the effectiveness of the system has not been confirmed in accordance with Regulation 13 (6) and paragraph 4.2.10 of the Revised COW Specifications (resolution A.446 (XI)) ☐

5.4.3 The ship has been supplied with a valid Crude Oil Washing Operations and Equipment Manual, which is dated ☐

5.4.4 The ship is not required to be but is equipped with COW in compliance with the safety aspects of Revised COW Specifications (resolution A.446 (XI)) ☐

5.5 Exemption from Regulation 13:

5.5.1 The ship is solely engaged in trade between..... in accordance with Regulation 13C is therefore exempted from the requirements of Regulation 13 ☐

5.5.2 The ship is operating with special ballast arrangements in accordance with Regulation 13D and is therefore exempted from the requirements of Regulation 13 ☐

5.6 Limitation of size and arrangements of cargo tanks (Regulation 24)

5.6.1 The ship is required to be constructed according to, and complies with, the requirements of Regulation 24 ☐

5.6.2 The ship is required to be constructed according to, and complies with, the requirements of Regulation 24 (4) (see Regulation 2 (2)) ☐

5.7 Subdivision and stability (Regulation 25)

5.7.1 The ship is required to be constructed according to, and complies with, the requirements of Regulation 25 ☐

5.7.2 Information and data required under Regulation 25 (5) in an approved form have been supplied to the ship ☐

6 RETENTION OF OIL ON BOARD (Regulation 15)

6.1 Oil discharge monitoring and control system

6.1.1 The ship comes under category.....oil tanker as defined in resolution A.496 (XII) ☐

6.1.2 The system comprises:

.1 control unit ☐

.2 computing unit ☐

.3 calculating unit ☐

6.1.3 The system is:

.1 fitted with a starting interlock ☐

.2 fitted with automatic stopping device ☐

6.1.4 The oil content meter is approved under the terms of resolution A.393 (X) suitable for:

.1 crude oil ☐

.2 black products ☐

.3 white products ☐

6.1.5 The ship has been supplied with an operations manual for the oil discharge monitoring and control system ☐

6.1.6 The ship is not required to be fitted with an oil discharge monitoring and control system, until..... 19....* in accordance with Regulation 15 (1) ☐

6.2 Slop tanks

6.2.1 The ship is provided with ..... dedicated slop tank(s) with the total capacity of ..... m³ which is ..... % of the oil carrying capacity, in accordance with:

.1 Regulation 15 (2) (*c*) ☐

.2 Regulation 15 (2) (*c*) (i) ☐

.3 Regulation 15 (2) (*c*) (ii) ☐

.4 Regulation 15 (2) (*c*) (iii) ☐

6.2.2 Cargo tanks have been designated as slop tanks ☐

6.2.3 The ship is not required to be provided with slop tank arrangements until ..... 19 ....* in accordance with Regulation 15 (1) ☐

6.3 Oil/water interface detectors

* Insert the date three years after the date of entry into force of the Convention.

6.3.1 The ship is provided with oil/water interface detectors approved under the terms of resolution MEPC.5 (XIII) ☐

6.4 Exemptions from Regulation 15

6.4.1 The ship is exempted from the requirements of Regulation 15 (1), (2) and (3) in accordance with Regulation 15 (7) ☐

6.4.2 The ship is exempted from the requirements of Regulation 15 (1), (2) and (3) in accordance with Regulation 2 (2) ☐

7 PUMPING, PIPING AND DISCHARGE ARRANGEMENTS (Regulation 18)

7.1 The overboard discharge outlets for segregated ballast are located:

7.1.1 above the waterline ☐

7.1.2 below the waterline ☐

7.2 The overboard discharge outlets, other than the discharge manifold, for clean ballast are located:**

** Only those outlets which can be monitored are to be indicated.

7.2.1 above the waterline ☐

7.2.2 below the waterline ☐

7.3 The overboard discharge outlets, other than the discharge manifold, for dirty ballast are located:**

7.3.1 above the waterline ☐

7.3.2 below the waterline in conjunction with the part flow arrangements in compliance with Regulation 18 (6) (*e*) ☐

7.3.3 below the waterline ☐

7.4 Discharge of oil from cargo pumps and oil lines (Regulation 18 (4) and (5)):

7.4.1 Means to drain all cargo pumps and oil lines at the completion of cargo discharge:

.1 drainings capable of being discharged to a cargo tank or slop tank ☐

.2 for discharge ashore a special small diameter line is provided ☐

8 EQUIVALENT ARRANGEMENTS FOR CHEMICAL TANKERS CARRYING OIL

8.1 As equivalent arrangements for the carriage of oil by a chemical tanker, the ship is fitted with the following equipment in lieu of slop tanks (paragraph 6.2 above) and oil/water interface detectors (paragraph 6.3 above):

8.1.1 oily-water separating equipment capable of producing effluent with oil content less than 100 ppm, with the capacity of..... m³/h ☐

8.1.2 a holding tank with the capacity of.....m³ ☐

8.1.3 a tank for collecting tank washings which is:

.1 a dedicated tank ☐

.2 a cargo tank designated as a collecting tank ☐

8.1.4 a permanently installed transfer pump for overboard discharge of effluent containing oil through the oily-water separating equipment ☐

8.2 The oily-water separating equipment has been approved under the terms of resolution A.393(X) and is suitable for the full range of Annex I products ☐

8.3 The ship holds a valid Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk ☐

9 EXEMPTION

9.1 Exemptions have been granted by the Administration from the requirements of Chapters II and III of Annex I of the Convention in accordance with Regulation 2 (4) (*a*) on those items listed under paragraph(s).....of this Record.

10 EQUIVALENTS (Regulation 3)

10.1 Equivalents have been approved by the Administration for certain requirements of Annex I on those items listed under paragraph(s).....

.....of this Record.

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued at.....
(Place of issue of the Record)

..... 19..... .....
(Signature of duly authorized officer issuing the Record)

(Seal or stamp of the issuing Authority, as appropriate)

Appendix III

The existing Forms of Oil Record Books and Supplements are replaced by the following forms:

"FORMS OF OIL RECORD BOOKS

OIL RECORD BOOK

Part I—Machinery space operations

(All ships)

Name of ship:

Distinctive number or letters:

Gross tonnage:

Period from: to:

Note: Oil Record Book Part I shall be provided to every oil tanker of 150 tons gross tonnage and above and every ship of 400 tons gross tonnage and above, other than oil tankers, to record relevant machinery space operations. For oil tankers, Oil Record Book Part II shall also be provided to record relevant cargo/ballast operations.

INTRODUCTION

The following pages of this section show a comprehensive list of items of machinery space operations which are, when appropriate, to be recorded in the Oil Record Book in accordance with Regulation 20 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78). The items have been grouped into operational sections, each of which is denoted by a letter code.

When making entries in the Oil Record Book, the date, operational code and item number shall be inserted in the appropriate columns and the required particulars shall be recorded chronologically in the blank spaces.

Each completed operation shall be signed for and dated by the officer or officers in charge. Each completed page shall be signed by the master of the ship.

LIST OF ITEMS TO BE RECORDED

(A) *BALLASTING OR CLEANING OF OIL 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. Position of ship at start of cleaning.
4. Position of ship at start of ballasting.

(B) *DISCHARGE OF DIRTY BALLAST OR CLEANING WATER FROM OIL FUEL TANKS REFERRED TO UNDER SECTION (A)*

5. Identity of tank(s).
6. Position of ship at start of discharge.
7. Position of ship on completion of discharge.
8. Ship's speed(s) during discharge.
9. Method of discharge:
   .1 Through 100 ppm equipment;
   .2 Through 15 ppm equipment;
   .3 To reception facilities.
10. Quantity discharged.

(C) *DISPOSAL OF OIL RESIDUES (SLUDGE)*

11. Quantity of residue retained on board for disposal.
12. Methods of disposal of residue:
   .1 To reception facilities (identify port);
   .2 Mixed with bunkers;
   .3 Transferred to another (other) tank(s) (identify tank(s));
   .4 Other method (state which).

(D) *NON-AUTOMATIC DISCHARGE OVERBOARD OR DISPOSAL OTHERWISE OF BILGE WATER WHICH HAS ACCUMULATED IN MACHINERY SPACES*

13. Quantity discharged.
14. Time of discharge.
15. Method of discharge or disposal:
   .1 Through 100 ppm equipment;
   .2 Through 15 ppm equipment;
   .3 To reception facilities (identify port);
   .4 To slop or collecting tank (identify tank).

(E) *AUTOMATIC DISCHARGE OVERBOARD OR DISPOSAL OTHERWISE OF BILGE WATER WHICH HAS ACCUMULATED IN MACHINERY SPACES*

16. Time when the system has been put into automatic mode of operation for discharge overboard.
17. Time when the system has been put into automatic mode of operation for transfer of bilge water to collecting (slop) tank (identify tank).
18. Time when the system has been put to manual operation.
19. Method of discharge overboard:
   .1 Through 100 ppm equipment;
   .2 Through 15 ppm equipment.

(F) *CONDITION OF OIL DISCHARGE MONITORING AND CONTROL SYSTEM*

20. Time of system failure.
21. Time when system has been made operational.
22. Reasons for failure.

(G) *ACCIDENTAL OR OTHER EXCEPTIONAL DISCHARGES OF OIL*

23. Time of occurrence.
24. Place or position of ship at time of occurrence.
25. Approximate quantity and type of oil.
26. Circumstances of discharge or escape, the reasons therefor and general remarks.

(H) *ADDITIONAL OPERATIONAL PROCEDURES AND GENERAL REMARKS.*

SCHEDULE 3—*continued*

NAME OF SHIP: .....

DISTINCTIVE NUMBER
OR LETTERS: .....

CARGO/BALLAST OPERATIONS (OIL TANKERS)*/MACHINERY SPACE OPERATIONS (ALL SHIPS)*

Date	*Code (letter)*	*Item (number)*	*Record of operations/signature of officer in charge*	

Signature of Master .....

OIL RECORD BOOK

Part II—Cargo/ballast operations
(Oil tankers)

Name of ship:

Distinctive number or letters:

Gross tonnage:

Period from: to:

NAME OF SHIP: .....

DISTINCTIVE NUMBER
OR LETTERS: .....

INTRODUCTION

The following pages of this section show a comprehensive list of items of cargo and ballast operations which are, when appropriate, to be recorded in the Oil Record Book in accordance with Regulation 20 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78). The items have been grouped into operational sections, each of which is denoted by a letter code.

When making entries in the Oil Record Book, the date, operational code and item number shall be inserted in the appropriate columns and the required particulars shall be recorded chronologically in the blank spaces.

Each completed operation shall be signed for and dated by the officer or officers in charge. Each completed page shall be countersigned by the Master of the ship. In respect of the oil tankers engaged in specific trades in accordance with Regulation 13c of Annex I of MARPOL 73/78, appropriate entry in the Oil Record Book shall be endorsed by the competent Port State authority.*

LIST OF ITEMS TO BE RECORDED

(A) *LOADING OF OIL CARGO*

1. Place of loading.
2. Type of oil loaded and identity of tank(s).
3. Total quantity of oil loaded.

(B) *INTERNAL TRANSFER OF OIL CARGO DURING VOYAGE*

4. Identity of tank(s):
   .1 From:
   .2 To:
5. Was (were) tank(s) in 4 (1) emptied?

(C) *UNLOADING OF OIL CARGO*

6. Place of unloading.
7. Identity of tank(s) unloaded.
8. Was (were) tank(s) emptied?

(D) *CRUDE OIL WASHING (COW TANKERS ONLY)*

(To be completed for each tank being crude oil washed)

9. Port where crude oil washing was carried out or ship's position if carried out between two discharge ports.
10. Identity of tank(s) washed.[1]
11. Number of machines in use.
12. Time of start of washing.
13. Washing pattern employed.[2]
14. Washing line pressure.
15. Time completed or stopped washing.
16. State method of establishing that tank(s) was (were) dry.
17. Remarks.[3]

* Delete as appropriate.

Note: Every oil tanker of 150 tons gross tonnage and above shall be provided with Oil Record Book Part II to record relevant cargo/ballast operations. Such a tanker shall also be provided with Oil Record Book Part I to record relevant machinery space operations.

* This sentence should only be inserted for the Oil Record Book of a tanker engaged in a specific trade.

[1] When an individual tank has more machines than can be operated simultaneously, as described in the Operations and Equipment Manual, then the section being crude oil washed should be identified, e.g. No. 2 centre, forward section.

[2] In accordance with the Operations and Equipment Manual, enter whether single-stage or multi-stage method of washing is employed. If multi-stage method is used, give the vertical arc covered by the machines and the number of times that arc is covered for that particular stage of the programme.

[3] If the programmes given in the Operations and Equipment Manual are not followed, then the reasons must be given under Remarks.

(E) *BALLASTING OF CARGO TANKS*

18. Identity of tank(s) ballasted.
19. Position of ship at start of ballasting.

(F) *BALLASTING OF DEDICATED CLEAN BALLAST TANKS (CBT TANKERS ONLY)*

20. Identity of tank(s) ballasted.
21. Position of ship when water intended for flushing, or port ballast was taken to dedicated clean ballast tank(s).
22. Position of ship when pump(s) and lines were flushed to slop tank.
23. Quantity of oily water resulting from line flushing transferred to slop tanks (identify slop tank(s)).
24. Position of ship when additional ballast water was taken to dedicated clean ballast tank(s).
25. Time and position of ship when valves separating the dedicated clean ballast tanks from cargo and stripping lines were closed.
26. Quantity of clean ballast taken on board.

(G) *CLEANING OF CARGO TANKS*

27. Identity of tank(s) cleaned.
28. Port or ship's position.
29. Duration of cleaning.
30. Method of cleaning.[4]
31. Tank washings transferred to:
    .1 Reception facilities;
    .2 Slop tank(s) or cargo tank(s) designated as slop tank(s) (identify tank(s)).

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

(H) *DISCHARGE OF DIRTY BALLAST*

32. Identity of tank(s).
33. Position of ship at start of discharge into the sea.
34. Position of ship on completion of discharge into the sea.
35. Quantity discharged into the sea.
36. Ship's speed(s) during discharge.
37. Was the discharge monitoring and control system in operation during the discharge?
38. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?
39. Quantity of oily water transferred to slop tank(s) (identify slop tank(s)).
40. Discharged to shore reception facilities (identify port if applicable).

(I) *DISCHARGE OF WATER FROM SLOP TANKS INTO THE SEA*

41. Identity of slop tanks.
42. Time of settling from last entry of residues, or
43. Time of settling from last discharge.
44. Time and position of ship at start of discharge.
45. Ullage of total contents at start of discharge.
46. Ullage of oil/water interface at start of discharge.
47. Bulk quantity discharged and rate of discharge.
48. Final quantity discharged and rate of discharge.
49. Time and position of ship on completion of discharge.
50. Was the discharge monitoring and control system in operation during the discharge?
51. Ullage of oil/water interface on completion of discharge.
52. Ship's speed(s) during discharge.
53. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?
54. Confirm that all applicable valves in the ship's piping system have been closed on completion of discharge from the slop tanks.

(J) *DISPOSAL OF RESIDUES AND OILY MIXTURES NOT OTHERWISE DEALT WITH*

55. Identity of tank(s).
56. Quantity disposed of from each tank.

57. Method of disposal:

.1 To reception facilities (identify port);

.2 Mixed with cargo;

.3 Transferred to another tank(s) (identify tank(s));

.4 Other method (state which).

(K) *DISCHARGE OF CLEAN BALLAST CONTAINED IN CARGO TANKS*

58. Position of ship at start of discharge of clean ballast.

59. Identity of tank(s) discharged.

60. Was (were) the tank(s) empty on completion?

61. Position of ship on completion if different from 58.

62. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?

(L) *DISCHARGE OF BALLAST FROM DEDICATED CLEAN BALLAST TANKS (CBT TANKERS ONLY)*

63. Identity of tank(s) discharged.

64. Time and position of ship at start of discharge of clean ballast into the sea.

65. Time and position of ship on completion of discharge into the sea.

66. Quantity discharged:

.1 Into the sea; or

.2 To reception facility (identify port).

67. Was there any indication of oil contamination of the ballast water before or during discharge into the sea?

68. Was the discharge monitored by an oil content meter?

69. Time and position of ship when valves separating dedicated clean ballast tanks from the cargo and stripping lines were closed on completion of deballasting.

(M) *CONDITION OF OIL DISCHARGE MONITORING AND CONTROL SYSTEM*

70. Time of system failure.

71. Time when system has been made operational.

72. Reasons for failure.

(N) *ACCIDENTAL OR OTHER EXCEPTIONAL DISCHARGES OF OIL*

73. Time of occurrence.

74. Port or ship's position at time of occurrence.

75. Approximate quantity and type of oil.

76. Circumstances of discharge or escape, the reasons therefor and general remarks.

(O) *ADDITIONAL OPERATIONAL PROCEDURES AND GENERAL REMARKS*

TANKERS ENGAGED IN SPECIFIC TRADES

(P) *LOADING OF BALLAST WATER*

77. Identity of tank(s) ballasted.

78. Position of ship when ballasted.

79. Total quantity of ballast loaded in cubic metres.

80. Remarks.

(Q) *RE-ALLOCATION OF BALLAST WATER WITHIN THE SHIP*

81. Reasons for re-allocation.

(R) *BALLAST WATER DISCHARGE TO RECEPTION FACILITY*

82. Port(s) where ballast water was discharged.

83. Name or designation of reception facility.

84. Total quantity of ballast water discharged in cubic metres.

85. Date, signature and stamp of port authority official.

NAME OF SHIP: .....

DISTINCTIVE NUMBER
OR LETTERS: .....

CARGO/BALLAST OPERATIONS (OIL TANKERS)*/MACHINERY SPACE OPERATIONS (ALL SHIPS)*

Date	*Code (letter)*	*Item (number)*	*Record of operations/signature of officer in charge*	

Signature of Master .....

* Delete as appropriate.

SCHEDULE 4

Section 3

ADOPTION OF AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 (RELATING TO ANNEX II OF THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 AS MODIFIED BY THE PROTOCOL OF 1978 RELATING THERETO)

adopted on 5 December 1985

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38 *(a)* of the Convention of the International Maritime Organization concerning the function of the Committee conferred upon it by international conventions for the prevention and control of marine pollution from ships,

NOTING Article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (herinafter referred to as the "1973 Convention") and Article VI of the Protocol of 1978 relating to the 1973 Convention (hereinafter referred to as the "1978 Protocol") which together specify the amendment procedure of the 1978 Protocol and confers upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

HAVING CONSIDERED at its twenty-second session amendments to the 1978 Protocol proposed and circulated in accordance with article 16 (2) *(a)* of the 1973 Convention,

1. ADOPTS in accordance with article 16 (2) *(d)* of the 1973 Convention amendments to the Annex of the 1978 Protocol (relating to Annex II of MARPOL 73/78), the text of which is set out in the Annex to the present resolution;

2. DETERMINES in accordance with article 16 (2) *(f)* (iii) of the 1973 Convention that the amendments shall be deemed to have been accepted on 5 October 1986 unless prior to this date one third or more of the Parties or the Parties the combined merchant fleets of which constitute fifty per cent or more of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES the Parties to note that in accordance with article 16 (2) *(g)* (ii) of the 1973 Convention the amendments shall enter into force on 6 April 1987 upon their acceptance in accordance with paragraph 2 above;

4. REQUESTS the Secretary-General in conformity with article 16 (2) *(e)* of the 1973 Convention to transmit to all Parties to the 1978 Protocol certified copies of the present resolution and the text of the amendments contained in the Annex;

5. FURTHER REQUESTS the Secretary-General to transmit to the Members of the Organization which are not Parties to the 1978 Protocol copies of the resolution and its Annex.

Annex

AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

Annex II

REGULATIONS FOR THE CONTROL OF POLLUTION BY NOXIOUS LIQUID SUBSTANCES IN BULK

Regulation 1

Definitions

The following new paragraphs (10) to (14) are added to the existing text:

"(10) 'International Bulk Chemical Code' means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC 19 (22), as may be amended by the Organization, provided that such amendments are adopted and brought into force in accordance with the provisions of Article 16 of the present Convention concerning amendment procedures applicable to an Appendix to an Annex.

(11) 'Bulk Chemical Code' means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC 20 (22), as may be amended by the Organization, provided that such amendments are adopted and brought into force in accordance with the provisions of Article 16 of the present Convention concerning amendment procedures applicable to an Appendix to an Annex.

(12) 'Ship constructed' means a ship the keel of which is laid or which is at a similar stage of construction. A ship converted to a chemical tanker, irrespective of the date of construction, shall be treated as a chemical tanker constructed on the date on which such conversion commenced. This conversion provision shall not apply to the modification of a ship which complies with all of the following conditions:

(a) the ship is constructed before 1 July 1986; and
(b) the ship is certified under the Bulk Chemical Code to carry only those products identified by the Code as substances with pollution hazards only.

(13) 'Similar stage of construction' means the stage at which:

(a) construction identifiable with a specific ship begins; and

(b) assembly of that ship has commenced comprising at least 50 tons or one per cent of the estimated mass of all structural material, whichever is less.

Regulation 2

Application

The following new paragraphs (4), (5), and (6) are added to the existing text:

"(4) For ships constructed before 1 July 1986, the provisions of Regulation 5 of this Annex in respect of the requirement to discharge below the waterline and maximum concentration in the wake astern of the ship shall apply as from 1 January 1988.

(5) The Administration may allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by this Annex if such fitting, material, appliance or apparatus is at least as effective as that required by this Annex. This authority of the Administration shall not extend to the substitution of operational methods to effect the control of discharge of noxious liquid substances as equivalent to those design and construction features which are prescribed by Regulations in this Annex.

(6) The Administration which allows a fitting, material, appliance or apparatus as alternative to that required by this Annex, under paragraph (5) of this Regulation, shall communicate to the Organization for circulation to the Parties to the Convention, particulars thereof, for their information and appropriate action, if any."

Regulation 3

Categorization and Listing of Noxious Liquid Substances

In paragraph (1) of the existing text, the phrase "except Regulation 13", is deleted.

Regulation 5

Discharge of Noxious Liquid Substances

In paragraph (1) of the existing text of the last sentence before sub-paragraph (a) is replaced by: "Any water subsequently added to the tank may be discharged into the sea when all the following conditions are satisfied:"

In paragraph (5) of the existing text of the third sentence is replaced by: "Any water subsequently introduced into the tank shall be regarded as clean and shall not be subject to paragraph (1), (2), (3) or (4) of this Regulation."

In paragraph (7) of the existing text of the last sentence before sub-paragraph (a) is replaced by: "Any water subsequently added to the tank may be discharged into the sea when all the following conditions are satisfied:"

In paragraph (8) the existing text of paragraph (a) is replaced by:

"*(a)* the tank has been prewashed in accordance with the procedure approved by the Administration and based on standards developed by the Organization and the resulting tank washings have been discharged to a reception facility."

In paragraph (10) the third sentence of the existing text is replaced by: "Any water subsequently introduced into the tank shall be regarded as clean and shall not be subject to paragraph (7), (8) or (9) of this Regulation."

The following new Regulation 5A is added to the existing text:

"Regulation 5A

Pumping, Piping and Unloading Arrangements

(1) Every ship constructed on or after 1 July 1986 shall be provided with pumping and piping arrangements to ensure, through testing under favourable pumping conditions, that each tank designated for the carriage of a Category B substance does not retain a quantity of residue in excess of 0.1 cubic metres in the tank's associated piping and in the immediate vicinity of that tank's suction point.

(2) *(a)* Subject to the provisions of sub-paragraph *(b)* of this paragraph, every ship constructed before 1 July 1986 shall be provided with pumping and piping arrangements to ensure, through testing under favourable pumping conditions, that each tank designated for the carriage of a Category B substance does not retain a quantity of residue in excess of 0.3 cubic metres in the tank's associated piping and in the immediate vicinity of that tank's suction point.

(b) Until 2 October 1994 ships referred to in sub-paragraph *(a)* of this paragraph if not in compliance with the requirements of that sub-paragraph shall, as a minimum, be provided with pumping and piping arrangements to ensure, through testing under favourable pumping conditions and surface residue assessment, that each tank designated for the carriage of a Category B substance does not retain a quantity of residue in excess of 1 cubic metre or 1/3000 of the tank capacity in cubic metres, whichever is greater, in that tank and the associated piping.

(3) Every ship constructed on or after 1 July 1986 shall be provided with pumping and piping arrangements to ensure, through testing under favourable pumping conditions, that each tank designated for the carriage of a Category C substance does not retain a quantity of residue in excess of 0.3 cubic metres in the tank's associated piping and in the immediate vicinity of that tank's suction point.

(4) *(a)* Subject to the provisions of sub-paragraph *(b)* of this paragraph, every ship constructed before 1 July 1986 shall be provided with pumping and piping arrangements to ensure, through testing under favourable pumping conditions, that each tank designated for the carriage of a Category C substance does not retain a quantity of residue in excess of 0.9 cubic metres in the tank's associated piping and in the immediate vicinity of that tank's suction point.

(b) Until 2 October 1994 the ships referred to in sub-paragraph *(a)* of this paragraph if not in compliance with the requirements of that sub-paragraph shall as a minimum, be provided with pumping and piping arrangements to ensure, through testing under favourable pumping conditions and surface residue assessment, that each tank designated for the carriage of a Category C substance does not retain a uantity of residue in excess of 3 cubic metres or 1/1000 of the tank capacity in cubic metres, whichever is greater, in that tank and the associated piping.

(5) Pumping conditions referred to in paragraphs (1), (2), (3) and (4) of this Regulation shall be approved by the Administration and based on standards developed by the Organization. Pumping efficiency tests referred to in paragraphs (1), (2), (3) and (4) of this Regulation shall use water as the test medium and shall be approved by the Administration and based on standards developed by the Organization. The residues on cargo tank surfaces, referred to in paragraphs (2) *(b)* and (4) *(b)* of this Regulation shall be determined based on standards developed by the Organization.

(6) *(a)* Subject to the provision of sub-paragraph *(b)* of this paragraph, the provisions of paragraphs (2) and (4) of this Regulation need not apply to a ship constructed before 1 July 1986 which is engaged in restricted voyages as determined by the Administration between:

(i) ports or terminals within a State Party to the present Convention; or

(ii) ports or terminals of States Parties to the present Convention.

(b) The provisions of sub-paragraph *(a)* of this paragraph shall only apply to a ship constructed before 1 July 1986 if:

(i) each time a tank containing Category B or C substances or mixtures is to be washed or ballasted, the tank is washed in accordance with a prewash procedure approved by the Administration and based on Standards developed by the Organization and the tank washings are discharged to a reception facility;

(ii) subsequent washings or ballast water are discharged to a reception facility or at sea in accordance with other provisions of this Annex;

(iii) the adequacy of the reception facilities at the ports or terminals referred to above, for the purpose of this paragraph, is approved by the Governments of the States Parties to the present Convention within which such ports or terminals are situated;

(iv) in the case of ships engaged in voyages to ports or terminals under the jurisdiction of other States Parties to the present Convention, the Administration communicates to the Organization, for circulation to the Parties to the Convention, particulars of the exemption, for their information and appropriate action, if any; and

(v) the Certificate required under this Annex is endorsed to the effect that the ship is solely engaged in such restricted voyages.

(7) For a ship whose constructional and operational features are such that ballasting of cargo tanks is not required and cargo tank washing is only required for repair or drydocking, the Administration may allow exemption from the provisions of paragraphs (1), (2), (3) and (4) of this Regulation, provided that all of the following conditions are complied with:

(a) the design, construction and equipment of the ship are approved by the Administration, having regard to the service for which it is intended;

(b) any effluent from tank washings which may be carried out before a repair or drydocking is discharged to a reception facility, the adequacy of which is ascertained by the Administration;

(c) the Certificate required under this Annex indicates:

(i) that each cargo tank is certified for the carriage of only one named substance; and

(ii) the particulars of the exemption;

(d) the ship carries a suitable operational manual approved by the Administration; and

(e) in the case of ships engaged in voyages to ports or terminals under the jurisdiction of other States Parties to the present convention, the Administration communicates to the Organization, for circulation to the Parties to the Convention, particulars of the exemption, for their information and appropriate action, if any."

Regulation 7

The existing title of this Regulation is replaced by "Reception Facilities and Cargo Unloading Terminal Arrangements"

The following new paragraph (3) is added to the existing text:

"(3) The Government of each Party to the Convention shall undertake to ensure that cargo unloading terminals shall provide arrangements to facilitate stripping of cargo tanks of ships unloading noxious liquid substances at these terminals. Cargo hoses and piping systems of the terminal, containing noxious liquid substances received from ships unloading these substances at the terminal, shall not be drained back to the ship."

The existing text of paragraph (3) is renumbered as (4) and replaced by the following:

"(4) Each Party shall notify the Organization, for transmission to the Parties concerned, of any case where facilities required under paragraph (1) or arrangements required under paragraph (3) of this Regulation are alleged to be inadequate."

The existing text of Regulation 8 is replaced by the following:

"Regulation 8

Measures of Control

(1) *(a)* The Government of each party to the Convention shall appoint or authorize surveyors for the purpose of implementing this Regulation. The surveyors shall execute control in accordance with control procedures developed by the Organization.

(b) The master of a ship carrying noxious liquid substances in bulk shall ensure that the provisions of Regulation 5 and this Regulation have been complied with and that the Cargo Record Book is completed in accordance with Regulation 9 of this Annex whenever operations as referred to in that Regulation take place.

(c) An exemption referred to in paragraph (2) *(b)*, (5) *(b)*, (6) *(c)* or (7) *(c)* of this Regulation may only be granted by the Government of the receiving Party to a ship engaged in voyages to ports or terminals under the jurisdiction of other States Parties to the present Convention. When such an exemption has been granted, the appropriate entry made in the Cargo Record Book shall be endorsed by the surveyor referred to in sub-paragraph *(a)* of this paragraph.

Category A substances in all areas

(2) With respect to Category A substances the following provisions shall apply in all areas:

(a) A tank which has been unloaded shall, subject to the provisions of sub-paragraph *(b)* of this paragraph, be washed in accordance with the requirements of paragraph (3) or (4) of this Regulation before the ship leaves the port of unloading.

(b) At the request of the ship's master, the Government of the receiving Party may exempt the ship from the requirements referred to in sub-paragraph *(a)* of this paragraph, where it is satisfied that:

(i) the tank unloaded is to be reloaded with the same substance or another substance compatible with the previous one and that the tank will not be washed or ballasted prior to loading; or

(ii) the tank unloaded is neither washed nor ballasted at sea and the provisions of paragraph (3) or (4) of this Regulation are complied with at another port provided that it has been confirmed in writing that a reception facility at that port is available and is adequate for such a purpose; or

(iii) the cargo residues will be removed by a ventilation procedure approved by the Administration and based on standards developed by the Organization.

(3) If the tank is to be washed in accordance with sub-paragraph (2) *(a)* of this Regulation, the effluent from the tank washing operation shall be discharged to a reception facility at least until the concentration of the substance in the discharge, as indicated by analyses of samples of the effluent taken by the surveyor, has fallen to the residual concentration specified for that substance in Appendix II to this Annex. When the required residual concentration has been achieved, remaining tank washings shall continue to be discharged to the reception facility until the tank is empty. Appropriate entries of these operations shall be made in the Cargo Record Book and endorsed by the surveyor referred to under paragraph (1) *(a)* of this Regulation.

(4) Where the Government of the receiving party is satisfied that it is impracticable to measure the concentration of the substance in the effluent without causing undue delay to the ship, that Party may accept an alternative procedure as being equivalent to paragraph (3) of this Regulation provided that:

(a) The tank is prewashed in accordance with a procedure approved by the Administration and based on standards developed by the Organization; and

(b) The surveyor referred to under paragraph (1) *(a)* certifies in the Cargo Record Book that:

(i) the tank, its pump and piping systems have been emptied; and

(ii) the prewash has been carried out in accordance with the prewash procedure approved by the Administration for that tank and that substance; and

(iii) the tank washings resulting from such prewash have been discharged to a reception facility and the tank is empty.

Category B and C substances outside Special Areas

(5) With respect to Category B and C substances, the following provisions shall apply outside Special Areas:

(a) A tank which has been unloaded shall, subject to the provisions of sub-paragraph *(b)* of this paragraph, be prewashed before the ship leaves the port of unloading, whenever;

(i) the substance unloaded is identified in the standards developed by the Organization as resulting in a residue quantity exceeding the maximum quantity which may be discharged into the sea under Regulation 5 (2) or (3) of this Annex in case of Category B or C substances respectively; or

(ii) the unloading is not carried out in accordance with the pumping conditions for the tank approved by the Administration and based on standards developed by the Organization as referred to under Regulation 5A (5) of this Annex, unless alternative measures are taken to the satisfaction of the surveyor referred to in paragraph (1) *(a)* of this Regulation, to remove the cargo residues from the ship to quantities specified in Regulation 5A of this Annex as applicable.

The prewash procedure used shall be approved by the Administration and based on standards developed by the Organization and the resulting tank washings shall be discharged to a reception facility at the port of unloading.

(b) At the request of the ship's master, the Government of the receiving party may exempt the ship from the requirements of sub-paragraph *(a)* of this paragraph, where it is satisfied that:

(i) the tank unloaded is to be reloaded with the same substance or another substance compatible with the previous one and that the tank will not be washed nor ballasted prior to loading; or

(ii) the tank unloaded is neither washed nor ballasted at sea and the tank is prewashed in accordance with a procedure approved by the Administration and based on standards developed by the Organization and resulting tank washings are discharged to a reception facility at another port, provided that it has been confirmed in writing that a reception facility at that port is available and adequate for such a purpose; or

(iii) the cargo residues will be removed by a ventilation procedure approved by the Administration and based on standards developed by the Organization.

Category B substances within Special Areas

(6) With respect of Category B substances, the following provisions shall apply within Special Areas:

(a) A tank which has been unloaded shall, subject to the provisions of sub-paragraphs *(b)* and *(c)*, be prewashed before the ship leaves the port of unloading. The prewash procedure used shall be approved by the Administration and based on standards developed by the Organization and the resulting tank washings shall be discharged to a reception facility at the port of unloading.

(b) The requirements of sub-paragraph *(a)* of this paragraph do not apply when all the following conditions are satisfied:

(i) the Category B substance unloaded is identified in the standards developed by the Organization as resulting in a residue quantity not exceeding the maximum quantity which may be discharged into the sea outside Special Areas under Regulation 5 (2) of this Annex, and the residues are retained on board for subsequent discharge into the sea outside the Special Area in compliance with Regulation 5 (2) of this Annex; and

(ii) the unloading is carried out in accordance with the pumping conditions for the tank approved by the Administration based on standards developed by the Organization as referred to under Regulation 5A (5) of this Annex, or failing to comply with the approved pumping conditions, alternative measures are taken to the satisfaction of the surveyor referred to in paragraph (1) *(a)* of this Regulation, to remove the cargo residues from the ship to quantities specified in Regulation 5A of this Annex as applicable.

(c) At the request of the ship's master, the Government of the receiving party may exempt the ship from the requirements of sub-paragraph *(a)* of this paragraph, where it is satisfied that:

(i) the tank unloaded is to be reloaded with the same substance or another substance compatible with the previous one and that the tank will not be washed or ballasted prior to loading; or

(ii) the tank unloaded is neither washed nor ballasted at sea and the tank is prewashed in accordance with a prcoedure approved by the Administration and based on standards developed by the Organization and resulting tank washings are discharged to a reception facility at another port, provided that it has been confirmed in writing that a reception facility at that port is available and adequate for such a purpose; or

(iii) the cargo residues will be removed by a ventilation procedure approved by the Administration and based on standards developed by the Organization.

Category C substances within Special Areas

(7) With respect to Category C substances, the following provisions shall apply within Special Areas:

(a) A tank which has been unloaded shall, subject to the provisions of sub-paragraphs *(b)* and *(c)* of this paragraph, be prewashed before the ship leaves the port of unloading, whenever:

(i) the Category C substance unloaded is identified in the standards developed by the Organization as resulting in a residue quantity exceeding the maximum quantity which may be discharged into the sea under Regulation 5 (9) of this Annex; or

(ii) the unloading is not carried out in accordance with the pumping conditions for the tank approved by the Administration and based on standards developed by the Organization as referred to under Regulation 5A (5) of this Annex, unless alternative measures are taken to the satisfaction of the surveyor referred to in paragraph 1 *(a)* of this Regulation, to remove the cargo residues from the ship to quantities specified in Regulation 5A of this Annex as applicable.

The prewash procedure used shall be approved by the Administration and based on standards developed by the Organization and the resulting tank washings shall be discharged to a reception facility at the port of unloading.

(b) The requirements of sub-paragraph *(a)* of this paragraph do not apply when all the following conditions are satisfied:

(i) the Category C substance unloaded is identified in the standards developed by the Organization as resulting in a residue quantity not exceeding the maximum quantity which may be discharged into the sea outside Special Areas under Regulation 5 (3) of this Annex, and the residues are retained on board for subsequent discharge into the sea outside the Special Area in compliance with Regulation 5 (3) of this Annex; and

(ii) the unloading is carried out in accordance with the pumping conditions for the tank approved by the Administration and based on standards developed by the Organization as referred to under Regulation 5A (5) of this Annex, or failing to comply with the approved pumping conditions, alternative measures are taken to the satisfaction of the surveyor referred to in paragaph (1) *(a)* of this Regulation, to remove the cargo residues from the ship to quantities specified in Regulation 5A of this Annex as applicable.

(c) At the request of the ship's master, the Government of the receiving party may exempt the ship from the requirements of sub-paragraph *(a)* of this paragraph, where it is satisfied that:

(i) the tank unloaded is to be reloaded with the same substance or another substance compatible with the previous one and that the tank will not be washed or ballasted prior to loading; or

(ii) the tank unloaded is neither washed nor ballasted at sea and the tank is prewashed in accordance with a procedure approved by the Administration and based on standards developed by the Organization and resulting tank washings are discharged to a reception facility at another port, provided that it has been confirmed in writing that a reception facility at that port is available and adequate for such a purpose; or

(iii) the cargo residues will be removed by a ventilation procedure approved by the Administration and based on standards developed by the Organization.

Category D substances in all areas

(8) With respect to Category D substances, a tank which has been unloaded shall either be washed and the resulting tank washings shall be discharged to a reception facility, or the remaining residues in the tank shall be diluted and discharged into the sea in accordance with Regulation 5 (4) of this Annex.

Discharge from a slop tank

(9) Any residues retained on board in a slop tank, including those from cargo pump room bilges, which contain a Category A substance, or within a special area either a Category A or a Category B substance, shall be discharged to a reception facility in accordance with the provisions of Regulation 5 (1), (7) or (8) of this Annex, whichever is applicable."

Regulation 9

Cargo Record Book

The existing text of sub-paragraph (2) (i) to (ix) is replaced by the following:

"(i) loading cargo;
(ii) internal transfer of cargo;
(iii) unloading of cargo;
(iv) cleaning of cargo tanks;
(v) ballasting of cargo tanks;
(vi) discharge of ballast from cargo tanks;
(vii) disposal of residues to reception facilities;
(viii) discharge into the sea or removal by ventilation of residues in accordance with Regulation 5 of this Annex."

In the existing text of paragraph (3), reference to "Article 7" is replaced by "Article 8".

In the second sentence of the existing text of paragraph (5), the words "when the ship is manned" are deleted.

In the third sentence of the existing text of paragraph (5), "(1973)" is deleted and the words "or a Certificate referred to in Regulation 12A of this Annex" are inserted.

In the second sentence of the existing text of paragraph (6), the word "two" is replaced by the word "three".

The existing texts of Regulations 10 to 12 is replaced by the following:

"Regulation 10

Surveys

(1) Ships carrying noxious liquid substances in bulk shall be subject to the surveys specified below:

(a) An initial survey before the ship is put in service or before the Certificate required under Regulation 11 of this Annex is issued for the first time, and which shall include a complete survey of its structure, equipment, systems, fittings, arrangements and material in so far as the ship is covered by this Annex. This survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of this Annex.

(b) Periodical surveys at intervals specified by the Administration, but not exceeding five years, and which shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the requirements of this Annex.

(c) A minimum of one intermediate survey during the period of validity of the Certificate and which shall be such as to ensure that the equipment and associated pump and piping systems fully comply with the applicable requirements of this Annex and are in good working order. In cases where only one such intermediate survey is carried out in any one Certificate validity period, it shall be held not before six months prior to, nor later than six months after the halfway date of the Certificate's period of validity. Such intermediate surveys shall be endorsed on the Certificate issued under Regulation 11 of this Annex.

(d) An annual survey within 3 months before or after the day and the month of the date of issue of the Certificate and which shall include a general examination to ensure that the structure, fittings, arrangements and materials remain in all respects satisfactory for the service for which the ship is intended. Such annual surveys shall be endorsed on the Certificate issued under Regulation 11 of this Annex.

(2) *(a)* Surveys of ships as regards the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.

(b) An Administration nominating surveyors or recognizing organizations to conduct surveys and inspections as set forth in sub-paragraph *(a)* of this paragraph, shall as a minimum empower any nominated surveyor or recognized organization to:

(i) require repairs to a ship; and

(ii) carry out surveys and inspections if requested by the appropriate authorities of a port State.

The Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations, for circulation to Parties to the present Convention for the information of their officers.

(c) When a nominated surveyor or recognized organization determines that the condition of the ship or its equipment does not correspond substantially with the particulars of the Certificate, or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, such surveyor or organization shall immediately ensure that corrective action is taken and shall in due course notify the Administration. If such corrective action is not taken the Certificate should be withdrawn and the Administration shall be notified immediately; and if the ship is in a port of another Party, the appropriate authorities of the port State shall also be notified immediately. When an officer of the Administration, a nominated surveyor or recognized organization has notified the appropriate authorities of the port State, the Government of the port State concerned shall give such officer, surveyor, or organization any necessary assistance to carry out their obligations under this Regulation. When applicable, the Government of the port State concerned shall take such steps as will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available without presenting an unreasonable threat of harm to the marine environment.

(d) In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the survey and inspection and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(3) *(a)* The condition of the ship and its equipment shall be maintained to conform with the provisions of the present Convention to ensure that the ship in all respects will remain fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(b) After any survey of the ship under paragraph (1) of this Regulation has been completed, no change shall be made in the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the sanction of the Administration, except the direct replacement of such equipment and fittings.

(c) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by this Annex, the master or owner of the ship shall report at the earliest opportunity to the Administration, the recognized organization or the nominated surveyor responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by paragraph (1) of this Regulation is necessary. If the ship is in a port of another Party, the master or owner shall also report immediately to the appropriate authorities of the port State and the nominated surveyor or recognized organization shall ascertain that such report has been made.

Regulation 11

Issue of Certificate

(1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be issued, after survey in accordance with the provisions of Regulation 10 of this Annex, to any ship carrying noxious liquid substances in bulk and which is engaged in voyages to ports or terminals under the jurisdiction of other Parties to the Convention.

(2) Such Certificate shall be issued either by the Administration or by any person or organization duly authorized by it. In every case, the Administration assumes full responsibility for the Certificate.

(3) *(a)* The Government of a Party to the Convention may, at the request of the Administration, cause a ship to be surveyed and, if satisfied that the provisions of this Annex are complied with, shall issue or authorize the issue of an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk to the ship in accordance with this Annex.

(b) A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

(c) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as the Certificate issued under paragraph (1) of this Regulation.

(d) No International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be issued to a ship which is entitled to fly the flag of a State which is not a Party.

(4) The International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be drawn up in an official language of the issuing country in the form corresponding to the model given in Appendix V to this Annex. If the language used is neither English nor French, the text shall include a translation into one of these languages.

Regulation 12

Duration of Certificate

(1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be issued for a period specified by the Administration, which shall not exceed five years from the date of issue.

(2) A Certificate shall cease to be valid if significant alterations have taken place in the construction, equipment, systems, fittings, arrangements or material required without the sanction of the Administration, except the direct replacement of such equipment or fittings, or if intermediate or annual surveys as specified by the Administration under Regulation 10 (1) *(c)* or *(d)* of this Annex are not carried out.

(3) A Certificate issued to a ship shall also cease to be valid upon transfer of the ship to the flag of another State. A new Certificate shall be issued only when the Government issuing the new Certificate is fully satisfied that the ship is in full compliance with the requirements of Regulation 10 (3) *(a)* and *(b)* of this Annex. In the case of a transfer between Parties, if requested within three months after the transfer has taken place, the Government of the Party whose flag the ship was formerly entitled to fly shall transmit as soon as possible to the Administration a copy of the Certificate carried by the ship before the transfer and, if available, a copy of the relevant survey report."

The following new Regulation 12A is added to the existing text:

"Regulation 12A

Survey and Certification of Chemical Tankers

Notwithstanding the provisions of Regulations 10, 11 and 12 of this Annex, chemical tankers which have been surveyed and certified by States Parties to the present Convention in accordance with the provisions of the International Bulk Chemical Code or the Bulk Chemical Code, as applicable, shall be deemed to have complied with the provisions of the said Regulations, and the Certificate issued under that Code shall have the same force and receive the same recognition as the Certificate issued under Regulation 11 of this Annex."

Regulation 13

Requirements for Minimizing Accidental Pollution

The existing text of Regulation 13 is replaced by the following:

"(1) The design, construction, equipment and operation of ships carrying noxious liquid substances of Category A, B or C in bulk, shall be such as to minimize the uncontrolled discharge into the sea of such substances.

(2) Chemical tankers constructed on or after 1 July 1986 shall comply with the requirements of the International Bulk Chemical Code.

(3) Chemical tankers constructed before 1 July 1986 shall comply with the following requirements:

(a) The following chemical tankers shall comply with the requirements of the Bulk Chemical Code as applicable to ships referred to in 1.7.2 of that Code:

(i) ships for which the building contract is placed on or after 2 November 1973 and which are engaged on voyages to ports or terminals under the jurisdiction of other States Parties to the Convention; and

(ii) ships constructed on or after 1 July 1983 which are engaged solely on voyages between ports or terminals within the State the flag of which the ship is entitled to fly;

(b) The following chemical tankers shall comply with the requirements of the Bulk Chemical Code as applicable to ships referred to in 1.7.3 of that Code:

(i) ships for which the building contract is placed before 2 November 1973 and which are engaged on voyages to ports or terminals under the jurisdiction of other States Parties to the Convention; and

(ii) ships constructed before 1 July 1983 which are engaged on voyages between ports or terminals within the State the flag of which the ship is entitled to fly, except that for ships of less than 1,600 tons gross tonnage compliance with the Code in respect of construction and equipment shall take effect not later than 1 July 1994.

(4) In respect of ships other than chemical tankers carrying noxious liquid substances of Category A, B or C in bulk, the Administration shall establish appropriate measures based on the Guidelines developed by the Organization in order to ensure that the provisions of paragraph (1) of this Regulation are complied with."

The following new Regulation 14 is added to the existing text:

"Regulation 14

Carriage and Discharge of Oil-like Substances

Notwithstanding the provisions of other Regulations of this Annex, noxious liquid substances designated in Appendix II of this Annex as falling under Category C or D and identified by the Organization as oil-like substances under the criteria developed by the Organization, may be carried on an oil tanker as defined in Annex I of the Convention and discharged in accordance with the provisions of Annex I of the present Convention, provided that all of the following conditions are complied with:

(a) the ship complies with the provisions of Annex I of the present Convention as applicable to product carriers as defined in that Annex;

(b) this ship carries an International Oil Pollution Prevention Certificate and its Supplement B and the Certificate is endorsed to indicate that the ship may carry oil-like substances in conformity with this Regulation and the endorsement includes a list of oil-like substances the ship is allowed to carry;

(c) in the case of Category C substances the ship complies with the ship type 3 damage stability requirements of:

(i) the International Bulk Chemical Code in the case of a ship constructed on or after 1 July 1986; or

(ii) the Bulk Chemical Code, as applicable under Regulation 13 of this Annex, in the case of a ship constructed before 1 July 1986; and

(d) the oil content meter in the oil discharge monitoring and control system of the ship is approved by the Administration for use in monitoring the oil-like substances to be carried."

Appendix II

LIST OF NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK

Existing list is replaced by the following:

Substance	UN Number	Pollution Category for operational discharge (Regulation 3 of Annex II)	Residual concentration (per cent by weight) (Regulation 5 (1) of Annex II)	(Regulation 5 (7) of Annex II)
		I	II	III Outside special areas	IV Within special areas
Acetaldehyde	1089	C		
Acetic acid	2789*	C		
	2790*			
Acetic anhydride	1715	C		
Acetone cyanohydrin	1541	A	0.1	0.05
Acetophenone		D		
Acetyl chloride	1717	C		
Acrylamide solution (50% or less)	2074	D		
Acrylic acid	2218	D		
Acrylonitrile	1093	B		
Adiponitrile	2205	D		

Pollution Category in brackets indicates that the substance has been provisionally included in this list and that further data are necessary in order to complete the evalution of its environmental hazards, particularly in relation to living resources. Until the hazard evaluation is completed the Pollution Category assigned shall be used.

* UN Number 2789 refers to more than 80% solution and 2790 between 10% and 80% solution.

	I	II	III	IV
Alcohols, C_4, C_5, C_6, mixtures		D		
Alcohols, C_5, C_6 as individual alcohols		D		
Alcohols C_7, C_8, C_9 as individuals and mixtures		C		
Alcohols C_{10}, C_{11}, C_{12} as individuals and mixtures		B		
Alcohol ethoxylate (higher secondary)		D		
Alcohol (C_{13}/C_{15}) poly(3-11) ethoxylates		B		
Alkyl acrylate vinyl pyridine copolymer in toluene		(C)		
Alkylamine mixtures		C		
Alkyl (C_9-C_{17}) benzene mixtures (straight or branched chain)		D		
Alkyl benzene sulphonate (branched chain)		B		
Alkyl benzene sulphonate (straight chain)		C		
Alkyl benzene sulphonic acid	2584			
	2586	C		
Allyl alcohol	1098	B		
Allyl chloride	1100	B		
2-(2-Aminoethoxy)ethanol	3055	D		
Aminoethylethanolamine		(D)		
N-Aminoethylpiperazine	2815	D		
Ammonia aqueous (28% or less)	2672*	C		

* UN number refers to 10-35%

Ammonium nitrate solution (93% or less)	2426	D		
Ammonium sulphate solution		D		
Ammonium sulphide solution (45% or less)	2683	B		
Amyl acetate, commercial	1104	C		
n-Amyl acetate	1104	C		
sec-Amyl acetate	1104	C		
n-Amyl alcohol	1105	D		
sec-Amyl alcohol	1105	D		
Amyl alcohol, primary	1105	D		
Aniline	1547	C		
Benzaldehyde		C		
Benzene and mixtures having 10% benzene or more	1114*	C		

	I	II	III	IV
Benzene sulphonyl chloride ..	2225	D		
Benzyl acetate		C		
Benzyl alcohol		C		
Benzyl chloride	1738	B		
Butene oligomer.....		D		
n-Butyl acetate	1123	C		
sec-Butyl acetate	1123	D		
n-Butyl acrylate	2348	D		
Butylamine (all isomers).....	1125 (normal)			
	1214 (iso)	C		
Butyl benzyl phthalate		A	0.1	0.05
n-Butyl butyrate.....		(B)		
Butyl/Decyl/Cetyl/Eiocosyl methacrylate mixture.....		D		
Butylene glycol.....		D		
1, 2-Butylene oxide	3022	C		
n-Butyl ether	1149	C		
Butyl lactate.....		D		
Butyl methacrylate.....	2227	D		
n-Butyraldehyde.....	1129	B		
Butyric acid	2820	B		
gamma-Butyrolactone		D		
Calcium alkyl salicylate		D		
Calcium chloride solution....		D		
Calcium hydroxide solution ..		D		
Calcium hypochlorite solution		B		
Calcium naphthenate in mineral oil		A	0.1	0.05
Camphor oil.....	1130	B		
Caprolactam.....		D		
Carbolic oil.....		A	0.1	0.05
Carbon disulphide.....	1131	A	0.01	0.005
Carbon tetrachloride	1846	B		
Cashew nut shell oil (untreated)		D		
Castor oil		D		
Chloroacetic acid.....	1750	C		
Chloroacetone	1695	C		
Chlorobenzene	1134	B		
Chloroform.....	1888	B		
1-Chloroheptane.....		A	0.1	0.05
Chlorohydrins, crude.....		(D)		
o-Chloronitrobenzene	1578	B		
2-Chloropropionic acid	2511	(C)		
3-Chloropropionic acid		(C)		
Cholorosulphonic acid	1754	C		
m-Chlorotoluene	2238	B		
o-Chlorotoluene	2238	A	0.1	0.05
p-Chlorotoluene	2238	B		
Chlorotoluene (mixed isomers)	2238	A	0.1	0.05
Choline chloride solution		D		
Citric acid.....		D		
Coal tar naphtha solvent		B		
Cobalt naphtenate in solvent naphtha.....		A	0.1	0.05
Coconut oil		D		
Coconut oil, fatty acid methyl ester.....		D		
Cod liver oil.....		D		
Corn oil		D		
Cotton seed oil.....		D		
Creosote (coal tar).....		(C)		
Creosote (wood).....		A	0.1	0.05
Cresol (mixed isomers).....	2076	A	0.1	0.05
Cresyl diphenyl phosphate ...		A	0.1	0.05
Cresylic acid.....	2022	A	0.1	0.05
Crotonaldehyde	1143	B		
Cycloheptane	2241	D		
Cyclohexane.....	1145	C		
Cyclohexane/Cyclohexanol mixture		C		
Cyclohexanol		C		
Cyclohexanone.....	1915	D		
Cyclohexylamine	2357	C		
p-Cymene.....	2046	C		
Decahydronaphthalene	1147	(D)		
n-Decaldehyde		B		
Decane		(D)		

* UN number 1114 applies to Benzene

	I	II	III	IV
Decene		B		
Decyl acrylate		A	0.1	0.05
Decyl alcohol (all isomers)		B		
Diacetone alcohol	1148	D		
Dialkyl (C_7-C_9) phthalates		(D)		
Dialkyl (C_9-C_{13}) phthalates		D		
Dibenzyl ether		(C)		
Dibutylamine		C		
Dibutyl phthalate		A	0.1	0.05
m-Dichlorobenzene		B		
o-Dichlorobenzene	1591	B		
1,1-Dichloroethane	2362	B		
1,2-Dichloroethylene	1150	(D)		
Dichloroethyl ether	1916	B		
1,6-Dichlorohexane		B		
2,2-Dichloroisopropyl ether	2490	C		
Dichloromethane	1593	D		
2,4-Dichlorophenol	2021	A	0.1	0.05
2,4-Dichlorophenoxy-acetic acid		(A)	0.1	0.05
2,4-Dichlorophenoxy-acetic acid, diethanolamine salt solution		(A)	0.1	0.05
2,4-Dichlorophenoxy-acetic acid, dimethylamine salt (70% or less) solution		(A)	0.1	0.05
2,4-Dichlorophenoxy-acetic acid, triiso-propanolamine salt solution		(A)	0.1	0.05
1,1-Dichloropropane		B		
1,2-Dichloropropane	1279	B		
1,3-Dichloropropane		B		
1.3-Dichloropropene	2047	B		
Dichloropropene/ Dichloropropane mixtures		B		
2.2-Dichloropropionic acid		D		
Dichloropropyl ether		(B)		
Diethylamine	1154	C		
Diethylaminoethanol	2686	C		
Diethylbenzene	2049	C		
Diethyl carbonate	2366	D		
Diethylene glycol dibutyl ether		D		
Diethylene glycol butyl ether acetate		(D)		
Diethylene glycol ethyl ether acetate		(D)		
Diethylene glycol methyl ether		C		
Diethylene glycol methyl ether acetate		(D)		
Diethylenetriamine	2079	(D)		
Di(2-ethylhexyl) adipate		D		
Di(2-ethylhexyl) phosphoric acid	1902	C		
Di(2-ethylhexyl) phthalate		D		
Diethyl malonate		C		
Diethyl phthalate		C		
Diethyl sulphate	1594	(B)		
Diglycidyl ether of Bisphenol A		B		
1, 4-Dihydro-9, 10-dihydroxy anthracene, disodium salt solution		D		
Diisobutylamine	2361	(C)		
Diisobutylene	2050	B		
Diisobutyl ketone	1157	D		
Diisobutyl phthalate		B		
Dissodecyl phthalate		D		
Diisononyl adipate		(D)		
Diisononyl phthalate		D		
Diisopropanolamine		C		
Diisopropylamine	1158	C		
Diisopropylbenzene (all isomers)		A	0.1	0.05
Diisopropyl naphthalene		D		
Dimethyl acetamide		(B)		
Dimethylamine solution (45% or less)	1160	C		
Dimethylamine solution (greater than 45% but not greater than 55%)	1160	C		

	I	II	III	IV
Dimethylamine solution (greater than 55% but not greater than 65%)	1160	C		
N,N-Dimethylcyclohexylamine	2264	C		
Dimethylethanolamine	2051	D		
Dimethylformamide	2265	D		
Dimethyl phthalate		C		
Dinitrotoluene (molten)	1600	B		
Dinonyl phthalate		D		
1,4-Dioxane	1165	D		
Dipentene	2052	C		
Diphenyl/Diphenyl oxide mixtures		A	0.1	0.05
Diphenyl ether		A	0.1	0.05
Diphenylmethane diisolcyanate	2489	(B)		
Diphenyl oxide/Diphenyl phenyl ether mixture		A	0.1	0.05
Di-n-propylamine	2383	C		
Dipropylene glycol methyl ether		(D)		
Ditridecyl phthalate		D		
Diundecyl phthalate		D		
Divinyl acetylene		(D)		
Dodecane		(D)		
Dodecene (all isomers)		B		
Dodecyl alcohol		B		
Dodecylbenzene		C		
Dodecyl diphenyl oxide disulphonate solution		B		
Dodecylphenol		A	0.1	0.05
Epichlorohydrin	2023	C		
Ethanolamine	2491	D		
2-Ethoxyethanol	1171	D		
2-Ethoxyethyl acetate	1172	C		
Ethyl acetate	1173	D		
Ethyl acetoacetate		(D)		
Ethyl acrylate	1917	B		
Ethylamine	1036	C		
Ethylamine solutions (72% or less)	2270	C		
Ethyl amyl ketone	2271	C		
Ethylbenzene	1175	C		
N-Ethylbutylamine		(C)		
Ethylcyclohexane		D		
N-Ethylcyclohexylamine		D		
Ethylene chlorohydrin	1135	C		
Ethylene cyanohydrin		(D)		
Ethylenediamine	1604	C		
Ethylenediamine, tetraacetic acid, tetrasodium salt solution		D		
Ethylene dibromide	1605	B		
Ethylene dichloride	1184	B		
Ethylene glycol		D		
Ethylene glycol methyl butyl ether		D		
Ethylene glycol acetate		(D)		
Ethylene glycol butyl ether acetate		D		
Ethylene glycol methyl ether	1188	D		
Ethylene glycol methyl ether acetate	1189	D		
Ethylene glycol phenyl ether		D		
Ethylene glycol phenyl ether/ Diethylene glycol phenyl ether mixture		D		
Ethylene oxide/Propylene oxide mixtures with an ethylene oxide content of not more than 30% by weight	2983	D		
2-Ethylhexanoic acid		D		
2-Ethylhexyl acrylate		D		
2-Ethylhexylamine	2276	B		
Ethylidene norbornene		B		
Ethyl lactate	1192	D		
Ethyl methacrylate	2277	(D)		
o-Ethyl phenol		(A)	0.1	0.05
2-Ethyl-3-propylacrolein		B		
Ethyltoluene		(B)		

	I	II	III	IV
Fatty alcohols (C_{12}-C_{20})		B		
Ferric chloride solution	2582	C		
Ferric hydroxyethyl ethylenediamine triacetic acid, trisodium salt solution		D		
Fish oil		D		
Formaldehyde solutions (45% or less)	1198 2209	C		
Formamide		D		
Formic acid	1779	D		
Fumaric adduct of rosin, water dispersion		B		
Furfural	1199	C		
Fufuryl alcohol	2874	C		
Glutaraldehyde solutions (50% or less)		D		
Glycidyl ester of C_{10} tryalkyl acetic acid		B		
Ground nut oil		D		
Heptanoic acid		(D)		
Heptanol (all isomers)		C		
Heptene (mixed isomers)		C		
Heptyl acetate		(B)		
Hexahydrocymene		(C)		
Hexamethylenediamine solution	1783	C		
Hexamethylenediamine adipate (50% in water)		D		
Hexemethyleneimine	2493	C		
1-Hexanol	2282	D		
1-Hexene	2370	C		
Hexyl acetate	1233	B		
Hydrochloric acid	1789	D		
Hydrogen peroxide solutions (over 60% but not over 70%)	2015	C		
Hydrogen peroxide solutions (over 8% but not over 60%)	2014 2984	C		
2-Hydroxyethyl acrylate		B		
N-(Hydroxyethyl) ethylene diamine triacetic acid, trisodium salt solution		D		
Iron chloride, copper chloride mixture		A	0.1	0.05
Isoamyl acetate	1104	C		
Isoamyl alcohol	1105	D		
Isobutyl acetate	1213	C		
Isobutyl acrylate	2527	D		
Isobutyl formate	2393	D		
Isobutyl formate/Isobutanol mixtures		(C)		
Isobutyl methacrylate	2283	D		
Isobutyraldehyde	2045	C		
Isodecaldehyde		C		
Isodecyl acrylate		A	0.1	0.05
Isononanoic acid		D		
Isooctane	1262	(D)		
Isopentane	1265	D		
Isophorone		D		
Isophorone diamine	2289	D		
Isophorone diisocyanate	2290	B		
Isoprene	1218	C		
Isopropanolamine		C		
Isopropylamine	1221	C		
Isopropylbenzene	1918	B		
Isopropyl cyclohexane		D		
Isopropyl ether	1159	D		
Isovaleraldehyde	2058	C		
Lactic acid		D		
Lactonitrile solution (80% or less)		B		
Latex (ammonia inhibited)		D		
Linseed oil		D		
Maleic anhydride	2215	D		
Mercaptobenzothiazol, sodium salt solution		(B)		
Mesityl oxide	1229	D		
Methacrylic acid	2531	D		
Methacrylic resin in 1, 2-Dichloroethane solution		(D)		
Methacrylonitrile		(B)		
Methanethiol		A	0.1	0.05

	I	II	III	IV
3-Methoxybutyl acetate	2708	D		
Methyl acrylate	1919	C		
Methylamine solutions (42% or less)	1235	C		
Methylamyl acetate	1233	(C)		
Methylamyl alcohol	2053	(C)		
Methyl amyl ketone	1110	(C)		
Methyl benzoate	2938	B		
Methyl tert-butyl ether	2398	D		
2-Methyl butyraldehyde		(C)		
4, 4'-Methylene dianiline and its higher molecular weight polymers/ o-Dichlorobenzene mixtures		B		
Methylethanolamine		C		3
2-Methyl-6-ethylaniline		C		
Methyl ethyl ketone	1193	D		
2-Methyl-5-ethyl pyridine	2300	(B)		
Methyl formate	1243	D		
Methyl isobutyl ketone	1245	D		
Methyl methacrylate	1247	D		
alpha-Methylnaphthalene		A	0.1	0.05
beta-Methylnaphthalene		(A)	0.1	0.05
Methyl naphthalene		A	0.1	0.05
2-Methyl-1-penetene	2288	C		
Methylpropyl ketone	1249	D		
2-Methylpyridine	2313	B		
4-Methylpyridine	2313	B		
N-Methyl-2-pyrrolidone		B		
Methyl salicylate		(B)		
alpha-Methylstyrene	2303	A	0.1	0.05
Morpholine	2054	D		
Motor fuel anti-knock compounds	1649	A	0.1	0.05
Naphthalene (molten)	2304	A	0.1	0.05
Naphthenic acids		(A)	0.1	0.05
Neodecanoic acid		(B)		
Nitrating acid (mixture of sulphuric and nitric acids)	1796	(C)		
Nitric acid (less than 70%)	2031	C		
Nitric acid (70% and over)	2031 2032	C		
Nitrilotriacetic acid, trisodium salt solution		D		
Nitrobenzene	1662	B		
Nitroethane	2842	(D)		
Nitromethane	1261	(D)		
o-Nitrophenol (molten)	1663	B		
1- or 2-Nitropropane	2608	D		
Nitropropane (60%)/ Nitroethane (40%) mixture	1993	D		
Nitrotoluenes	1664	C		
Nonane	1920	(D)		
Nonanoic acid		D		
Nonene		B		
Nonyl alcohol		A		
Nonylphenol		C	0.1A	0.05
Nonylphenol poly (4-12) ethoxylates		B		
9, 12-Octadecadienoic acid (Linoleic acid)		D		
9, 12, 15-Octadecatrienoic acid (Linolenic acid)		D		
Octane	1262	(D)		
Octanol (all isomers)		C		
Octene (all isomers)		B		
n-Octyl acetate		(D)		
Octyl decyl phthalate		D		
Olefins, straight chain, mixtures		B		
Olefins (C_6-C_8 mixtures)		B		
alpha-Olefins (C_6-C_{18} mixtures)		B		
Oleic acid		(D)		
Oleum	1831	C		
Olive oil		D		
Oxalic acid (10-25%)		D		
Palm nut oil		D		
Palm oil		D		
Palm oil, methyl ester		D		
Palm stearin		D		
n-Paraffins (C_{10}-C_{20})		(D)		

	I	II	III	IV
Paraldehyde	1264	C		
Pentachloroethane	1669	B		
1, 3-Pentadiene		C		
Pentaethylenehexamine/ Tetraethylenepentamine mixture		D		
n-Pentane	1265	C		
1-Pentanol	1105	D		
2-Pentanol	1105	(D)		
3-Pentanol	1105	(D)		
Pentene (all isomers)		C		
Perchloroethylene	1897	B		
Phenol	2312	B		
1-Phenyl-1-xylyl ethane		C		
Phosphoric acid	1805	D		
Phosphorus, yellow or white	2447	A	0.01	0.005
Phosphorus oxychloride	1810	D		
Phosphorus trichloride	1809	D		
Phthalic anhydride	2214	C		
Pinene	2368	A	0.1	0.05
Polyalkylene glycol butyl ether		(D)		
Polyethylene polyamines	2734 2735	(C)		
Polymethylene polyphenyl isocyanate	2206 2207	D		
Polypropylene glycols		D		
Potassium hydroxide solution	1814	C		
Potassium silicate solution		(D)		
n-Propanolamine		C		
beta-Propiolactone		D		
Propionaldehyde	1275	D		
Propionic acid	1848	D		
Propionic anhydride	2496	C		
Propionitrile	2404	C		
n-Propyl acetate	1276	D		
n-Propyl alcohol	1274	D		
n-Propylamine	1277	C		
n-Propyl benzene	2364	(C)		
n-Propyl chloride	1278	B		
Propylene dimer		(C)		
Propylene glycol ethyl ether		(D)		
Propylene glycol methyl ether		(D)		
Propylene oxide	1280	D		
Propylene trimer	2057	B		
Pyridine	1282	B		
Rape seed oil		D		
Rice bran oil		D		
Rosin		A	0.1	0.05
Rosin soap (disproportionated) solution		B		
Safflower oil		D		
Sesame oil		D		
Silicon tetrachloride	1818	D		
Sodium aluminate solution	1819	C		
Sodium borohydride (15% or less)/Sodium hydroxide solution		C		
Sodium dichromate solution (70% or less)		B		
Sodium hydrogen sulphite solution	2693	D		
Sodium hydrosulphide solution (45% or less)	2949	B		
Sodium hydrosulphide/ Ammonium sulphide solution		B		
Sodium hydroxide solution	1824	D		
Sodium hypochlorite solution (15% or less)	1791	B		
Sodium nitrate solution	1577	B		
Sodium silicate solution		D		
Sodium sulphide solution	1849	B		
Sodium sulphite solution		(C)		
Soya bean oil		D		
Sperm oil		D		
Styrene monomer	2055	B		
Sulphuric acid	1830	C		
Sulphuric acid, spent	1832	C		
Sulphurous acid	1833	(C)		
Sunflower oil		D		
Tall oil, crude and distilled		A	0.1	0.05

	I	II	III	IV
Tall oil fatty acid (resin acids less than 20%)		(C)		
Tall oil soap (disproportionated) solution		B		
Tallow		D		
Tannic acid		C		
Tetrachloroethane	1702	B		
Tetraethylenepentamine	2320	D		
Tetrahydrofuran	2056	D		
Tetrahydronaphthalene		C		
1,2,3,5-Tetramethyl benzene		(C)		
Titanium tetracholoride	1838	D		
Toluene	1294	C		
Toluenediamine	1709	C		
Toluene diisocyanate	2078	C		
o-Toluidine	1708	C		
Tributyl phosphate		B		
1,2,4-Trichlorobenzene	2321	B		
1,1,1-Trichloroethane	2831	B		
1,1,2-Trichloroethane		B		
Trichloroethylene	1710	B		
1,2,3-Trichloropropane		B		
1,1,2-Trichloro-1,2,2-trifluoroethane		C		
Tricresyl phosphate (containing less than 1% ortho-isomer)		A	0.1	0.05
Tricresyl phosphate (containing 1% or more ortho-isomer)	2574*	A	0.1	0.05
Triethanolamine		D		
Triethylamine	1296	C		
Triethylbenzene		A	0.1	0.05
Triethylene glycol methyl ether		(D)		
Triethylenetetramine	2259	D		
Triethyl phosphate		D		
Triisopropanolamine		D		
Trimethylacetic acid		D		
Trimethylamine		C		
1,2,3-Trimethylbenzene		(B)		
1,2,4-Trimethylbenzene		B		
1,3,5-Trimethylbenzene	2325	(B)		
Trimethylhexamethylene diamine (2,2,4- and 2,4,4-isomers)	2327	D		
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4- isomers)	2328	B		
Trimethylol propane polyethoxylate		D		
2,2,4-Trimethyl-1, 3-pentanediol-1-iso-butyrate		C		
Tripropylene glycol methyl ether		(D)		
Trixylyl phosphate		A	0.1	0.05
Tung oil		D		
Turpentine	1299	B		
Undecane	2330	(D)		
1-Undecene		B		
Undecyl alcohol		B		
Urea, Ammonium nitrate solution		D		
Urea, Ammonium phosphate solution		D		
Urea, Ammonium nitrate solution (containing aqua Ammonia)		C		
n-Valeraldehyde	2058	D		
Vinyl acetate	1301	C		
Vinyl ethyl ether	1302	C		
Vinylidene chloride	1303	B		
Vinyl neodecanoate		C		
Vinyl toluene	2618	A	0.1	0.05
White spirit, low (15-20%) aromatic	1300	(B)		
Xylene	1307	C		
Xylenol	2261	B		

* UN number 2574 applies to Tricresyl phosphate containing more than 3% ortho-isomer.

Appendix III

LIST OF OTHER LIQUID SUBSTANCES

Existing list is replaced by the following:

Substance	UN Number
Acetone	1090
Acetonitrile	1648
Alcohols, C_1, C_2, C_3 as individuals and mixtures	
Alcohols, C_4	
Alcohols, C_{13} and above as individuals and mixtures	
Alum (15% solution)	
tert-Amyl alcohol	1105
n-Butyl alcohol	1120
sec-Butyl alcohol	1120
tert-Butyl alcohol	1120
Butyl stearate	
Calcium bromide solution	
Cetyl/Eicosyl methacrylate mixture	
Citric juice	
Dextrose solution	
Dibutyl sebacate	
Dicyclopentadiene	2048
Diethanolamine	
Diethylene glycol	
Diethylene glycol diethyl ether	
Diethylene glycol butyl ether	
Diethylene glycol ethyl ether	
Diethylenetriamine pentaacetic acid, pentasodium salt solution	
Diethyl ether	1155
Diethyl ketone	1156
Diheptyl phthalate	
Dihexyl phthalate	
Diisooctyl phthalate	
Dioctyl phthalate	
Dipropylene glycol	
Dodecyl methacrylate	
Dodecyl/Pentadecyl methacrylate mixture	
Ethyl alcohol	1170
Ethylene carbonate	
Ethylene glycol butyl ether	2369
Ethylene glycol tertiary butyl ether	
Ethylene-vinylacetate copolymer (emulsion)	
Glycerin	
Glycine sodium salt solution	
1-Heptadecene	
n-Heptane	1206
1-Hexadecene	
n-Hexane	1208
Hexylene glycol	
Isobutyl alcohol	1212
Isopropyl acetate	1220
Isopropyl alcohol	1219
Lard	
Latex (carboxylated styrene/butadiene copolymer)	
Lignin sulphonic acid, salt (low COD) solution	
Magnesium chloride solution	
Magnesium hydroxide slurry	
3-Methoxy-1-butanol	
Methyl acetate	1231
Methyl alcohol	1230
2-Methyl-2-hydroxy-3-butyne	
3-Methyl-3-methoxy butanol	
3-Methyl-3-methoxy butyl acetate	
2-methylpentane*	1208
Milk	
Molasses	
1-Octadecanol	
Olefins (C_{13} and above, all isomers)	
Paraffin wax	
1-Pentadecene	
Petroleum spirit	1271
Polyaluminium chloride solution	
Polybutene	
Polyethylene glycols	
Polyethylene glycol dimethyl ether	
Polypropylene glycol methyl ether	
Polysiloxane	
1,2-Propylene glycol	
Propylene tetramer	2850
Sodium alumino silicate slurry	
Sodium chlorate solution (50% or less)	2428
Sodium salicylate	
Sorbitol	

Substance	UN Number
Sulpholane*	
Sulphur (molten)	2448
1-Tetradecanol	
Tetradecene	
Tridecanol	
Tridecene	
Triethylene glycol	
Triethylene glycol butyl ether	
Triisobutylene	2324
Tripropylene butyl glycol	
Urea solution	
Urea resin solution	
Vegetable protein solution (hydrolyzed)	
Wine	

* Asterisk indicates that the substance has been provisionally included in this list and that further data are necessary in order to complete the evaluation of its environmental hazards, particularly in relation to living resources.

Appendix IV

CARGO RECORD BOOK FOR SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK

The existing Appendix IV is replaced by the following:

"Appendix IV

FORM OF CARGO RECORD BOOK

CARGO RECORD BOOK FOR SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK

Name of ship :

Distinctive number or letters :

Gross tonnage :

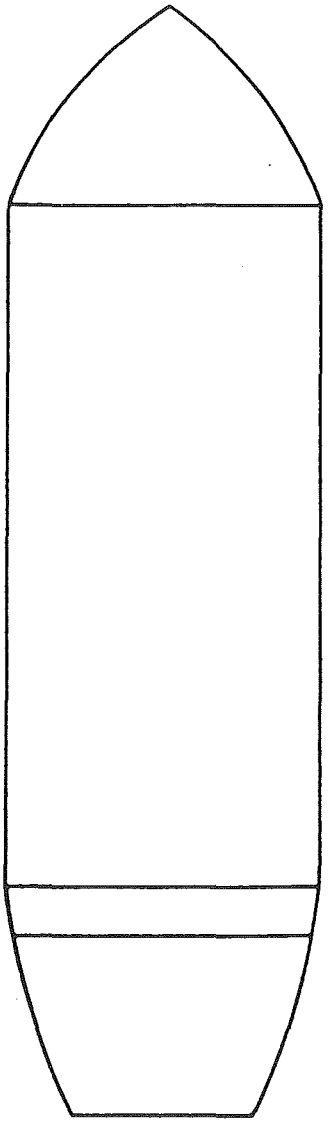
Period from: to:

Note: Every ship carrying noxious liquid substances in bulk shall be provided with a Cargo Record Book to record relevant cargo/ballast operations.

NAME OF SHIP: .....

DISTINCTIVE NUMBER OR LETTERS: .....

PLAN VIEW OF CARGO AND SLOP TANKS
(to be completed on board)



Identification of the tanks	Capacity

(Give the capacity of each tank in cubic metres.)

INTRODUCTION

The following pages show a comprehensive list of items of cargo and ballast operations which are, when appropriate, to be recorded in the Cargo Record Book on tank-to-tank basis in accordance with paragraph 2 of Regulation 9 of Annex II of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended. The items have been grouped into operational sections, each of which is denoted by a letter.

When making entries in the Cargo Record Book, the date, operational code and item number shall be inserted in the appropriate columns and the required particulars shall be recorded chronologically in the blank spaces.

Each completed operation shall be signed for and dated by the officer or officers in charge and, if applicable, by a surveyor authorized by the competent authority of the State in which the ship is unloading. Each completed page shall be countersigned by the master of the ship.

Entries in the Cargo Record Book are required only for operations involving Categories A, B, C and D substances.

LIST OF ITEMS TO BE RECORDED

Entries are required only for operations involving Categories A, B, C and D substances.

(A) LOADING OF CARGO

1. Place of loading
2. Identify tank(s), name of substance(s) and category(ies).

(B) INTERNAL TRANSFER OF CARGO

3. Name and category of cargo(es) transferred.
4. Identity of tanks.
   .1 From:
   .2 To:
5. Was (were) tank(s) in 4.1 emptied?
6. If not, quantity remaining in tank(s).

(C) UNLOADING OF CARGO

7. Place of unloading
8. Identity of tank(s) unloaded.
9. Was (were) tank(s) emptied?
   .1 If yes, confirm that the procedure for emptying and stripping has been performed in accordance with the ship's Procedures and Arrangements Manual (i.e., list, trim, stripping temperature).
   .2 If not, quantity remaining in tank(s).
10. Does the ship's Procedures and Arrangements Manual require a prewash with subsequent disposal to reception facilities?
11. Failure of pumping and/or stripping system.
    .1 Time and nature of failure.
    .2 Reasons for failure.
    .3 Time when system has been made operational.

(D) MANDATORY PREWASH IN ACCORDANCE WITH THE SHIP'S PROCEDURES AND ARRANGEMENTS MANUAL

12. Identify tank(s), substance(s) and category(ies).
13. Washing method:
    .1 Number of washing machines per tank.
    .2 Duration of was/washing cycles.
    .3 Hot/cold wash.
14. Prewash slops transferred to:
    .1 Reception facility in unloading port (identify port).
    .2 Reception facility otherwise (identify port).

(E) CLEANING OF CARGO TANKS EXCEPT MANDATORY PREWASH (OTHER PREWASH OPERATIONS, FINAL WASH, VENTILATION ETC.)

15. State time, identify tank(s), substance(s) and category(ies) and state:
    .1 Washing procedure used.
    .2 Cleaning agent(s) (identify agent(s) and quantities).
    .3 Dilution of cargo residues with water, state how much water used (only Category D substances).
    .4 Ventilation procedure used (state number of fans used, duration of ventilation).

16. Tank washings transferred:
    .1 Into the sea.
    .2 To reception facility (identify port).
    .3 To slops collecting tank (identify tank).

(F) DISCHARGE INTO THE SEA OF TANK WASHINGS

17. Identify tank(s).
    .1 Were tank washings discharged during cleaning of tank(s), if so at what rate?
    .2 Were tank washing(s) discharged from a slops collecting tank? If so, state quantity and rate of discharge.
18. Time commenced and stopped pumping.
19. Ship's speed during discharge.

(G) BALLASTING OF CARGO TANKS

20. Identity of tank(s) ballasted.
21. Time at start of ballasting.

(H) DISCHARGE OF BALLAST WATER FROM CARGO TANKS

22. Identity of tank(s).
23. Discharge of ballast:
    .1 Into the sea.
    .2 To reception facilities (identify port).
24. Time commenced and stopped ballast discharge.
25. Ship's speed during discharge.

(I) ACCIDENTAL OR OTHER EXCEPTIONAL DISCHARGE

26. Time of occurrence.
27. Approximate quantity, substance(s) and category(ies).
28. Circumstances of discharge or escape and general remarks.

(J) CONTROL BY AUTHORIZED SURVEYORS

29. Identify port.
30. Identify tank(s), substance(s), category(ies) discharged ashore.
31. Have tank(s), pump(s), and piping system(s) been emptied?
32. Has a prewash in accordance with the ship's Procedures and Arrangements Manual been carried out?
33. Have tank washings resulting from the prewash been discharged ashore and is the tank empty?
34. An exemption has been granted from mandatory prewash.
35. Reasons for exemption.
36. Name and signature of authorized surveyor.
37. Organization, company, government agency for which surveyor works.

(K) ADDITIONAL OPERATIONAL PROCEDURES AND REMARKS

NAME OF SHIP: .....
DISTINCTIVE NUMBER
OR LETTERS: .....
CARGO/BALLAST OPERATIONS

Date	Code (letter)	Item (number)	Record of operations/signature of officer in charge/name of and signature of authorized surveyor

Signature of Master .....

Appendix V

FORM OF CERTIFICATE

The existing form of the Certificate is replaced by the following:

"INTERNATIONAL POLLUTION PREVENTION CERTIFICATE FOR THE CARRIAGE OF NOXIOUS LIQUID SUBSTANCES IN BULK

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto as amended (hereinafter referred to as "the Convention") under the authority of the Government of

.....
(full official designation of the country)

by

.....
(full official designation of the competent person or organization authorized under the provisions of the Convention)

Name of ship	Distinctive number or letters	Port of registry	Gross tonnage

THIS IS TO CERTIFY:

1. That the ship has been surveyed in accordance with the provisions of Regulation 10 of Annex II of the Convention.
2. That the survey showed that the structure, equipment, systems, fitting, arrangements and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex II of the Convention.

3. That the ship has been provided with a manual in accordance with the standards for procedures and arrangements as called for by Regulation 5, 5A and 8 of Annex II of the Convention, and that the arrangements and equipment of the ship prescribed in the manual are in all respects satisfactory and comply with the applicable requirements of the said Standards.
4. That the ship is suitable for the carriage in bulk of the following noxious liquid substances, provided that all relevant operational provisions of Annex II of the Convention are observed.

Noxious liquid substances	Conditions of carriage (tank numbers etc.)
*Continued on additional signed and dated sheets	

This certificate is valid, until .....

subject to surveys in accordance with Regulation 10 of Annex II of the Convention

Issued at .....
(place of issue of Certificate)

..... 19 .....
(Date of issue) (Signature of duly authorized official issuing the Certificate)

_____ (Seal or stamp of the issuing Authority, as appropriate)

* Delete as necessary

ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS

THIS IS TO CERTIFY that at a survey required by Regulation 10 of Annex II of the Convention the ship was found to comply with the relevant provisions of the Convention:

Annual survey: Signed .....
(signature of duly authorized official)

Place: .....

Date: .....

(seal or stamp of the Authority, as appropriate)

Annual*/Intermediate* survey: Signed .....
(signature of duly authorized official)

Place: .....

Date: .....

(seal or stamp of the Authority, as appropriate)

Annual*/Intermediate* survey: Signed .....
(signature of duly authorized official)

Place: .....

Date: .....

(seal or stamp of the Authority, as appropriate)

Annual survey: Signed .....
(signature of duly authorized official)

Place: .....

Date: .....

_____ (seal or stamp of the Authority, as appropriate)

* Delete as appropriate

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 57 of 1987

An Act for the appropriation of money from the Consolidated Account for the financial year ending on 30 June, 1988.

[*Assented to 10 September 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Supply Act (No. 2), 1987".

Appropriation.

2. (1) The sum of eight hundred and seventy-five million dollars is appropriated from the Consolidated Account for the Public Service of the State for the financial year ending on 30 June, 1988 in addition to the amount appropriated by the Supply Act (No. 1), 1987.

(2) Money must not be issued or applied pursuant to that appropriation for any purpose in excess of the amount appropriated by Parliament for the same purpose in respect of the financial year that ended on 30 June, 1987.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 58 of 1987

An Act to amend the Egg Industry Stabilization Act, 1973.

[*Assented to 17 September 1987*]

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Egg Industry Stabilization Act Amendment Act, 1987". Short title.

(2) The Egg Industry Stabilization Act, 1973, is in this Act referred to as "the principal Act".

2. This Act will come into operation on a day to be fixed by proclamation. Commencement.

3. Section 3 of the principal Act is amended— Amendment of s. 3—Arrangement of Act.

(a) by striking out the item:

Part II—Constitution of the Licensing Committee;

(b) by striking out the item:

Division I—Categories of Poultry Farmers;

(c) by striking out the item:

Division III—Determination of Base Quotas;

(d) by striking out the item:

Division IV—Hen Quotas and State Hen Quota

and substituting the item:

Division IV—Hen Quotas;

and

(e) by striking out the item:

Division I—Poll on Commencement of Act.

4. Section 4 of the principal Act is amended by striking out the definitions of "base quota", "Commonwealth Levy Act", "Commonwealth Levy Collection Act", "first licensing season", "hen quota", "Licensing Committee", "member", "poultry farmer", "relevant period" and "State hen quota". Amendment of s. 4—Interpretation.

Amendment of s. 5— Application of Act.

5. Section 5 of the principal Act is amended—

(a) by striking out subsections (1), (3) and (4) and substituting the following subsections:

(1) Subject to this section, this Act applies to—

(a) a person who owns or keeps more than 50 hens;

or

(b) a person who, in association with others, keeps more than 50 hens in the course of a joint enterprise.

(2) The Governor may, by proclamation—

(a) exempt—

(i) the Crown or any instrumentality or agency of the Crown;

or

(ii) an educational institution,

from the operation of some or all of the provisions of this Act;

or

(b) exempt any other person, or class of persons, from the operation of some or all of the provisions of this Act in relation to hens owned or kept for non-commercial purposes.;

and

(b) by striking out subsection (7) and substituting the following subsection:

(7) The Governor may, by subsequent proclamation, vary or revoke a proclamation under this section.

Repeal of Part II.

6. Part II of the principal Act is repealed.

Amendment of s. 9— Inspectors.

7. Section 9 of the principal Act is amended by striking out from subsections (1) and (2) "Licensing Committee" and substituting, in each case, "Board".

Repeal of Division I of Part IV.

8. Division I of Part IV of the principal Act is repealed.

Repeal of ss. 14 and 15 and substitution of new sections.

9. Sections 14 and 15 of the principal Act are repealed and the following sections are substituted:

Offence in relation to owning or keeping hens without a licence or permit.

14. (1) Subject to section 5, a person shall not own or keep hens for the production of eggs for human consumption except in pursuance of a licence under this Act.

Penalty: $1 000 plus $5 in respect of each 100 hens for each day on which the offence was committed.

(2) Subject to section 5, a person shall not own or keep hens for any other purpose except in pursuance of a permit under this Act.

Penalty: $200.

(3) A licensee who contravenes or fails to comply with a condition or restriction attached to the licence is guilty of an offence.

Penalty: $500.

Issue of licences.

15. (1) Subject to this section, the Board must on receipt of an application for a licence in relation to a licensing season, and payment of the prescribed fee, issue a licence to the applicant for the relevant licensing season.

(2) If a licensing season is a period of less than 12 months, a licence for the next licensing season will be automatically issued without application and without fee to a person who held a licence for that licensing season.

(3) A licence can be issued in the name of a partnership and in that event, each member of the partnership will be regarded as a licensee.

(4) A licence can be issued to an educational institution or Crown instrumentality in the name of some appropriate nominee.

(5) The Board may, by notice in the *Gazette*, fix a day (which must be a day falling at least 30 days after publication of the notice) as the last day on which applications for licences in relation to a particular licensing season may be made and, where such a day is fixed, applications received after that day, which relate to that licensing season, will be rejected.

(6) An application may be rejected if—

(a) the applicant has been convicted of an offence against this Act;

or

(b) the application is made on behalf of a partnership or proprietary company and a member of the partnership or proprietary company has been convicted of an offence against this Act.

(7) A licence remains in force until the end of the licensing season in respect of which it is issued unless it is earlier cancelled or surrendered.

Repeal of s. 16 and substitution of new section.

10. Section 16 of the principal Act is repealed and the following section is substituted:

Condition attached to licences.

16. A licence will be subject to the following conditions:

(a) a condition requiring that all hens kept pursuant to the licence be kept at a place specified in the licence;

(b) a condition that the number of hens kept pursuant to the licence must not exceed the licensee's quota by more than 50;

(c) such other conditions as may be prescribed by regulation;

and

(d) such other conditions as the Board thinks fit and includes in the licence.

Amendment of s. 17—Licence fee.

11. Section 17 of the principal Act is amended by striking out "Licensing Committee" wherever it occurs and substituting, in each case, "Board".

Amendment of s. 18—Cancellation of licence.

12. Section 18 of the principal Act is amended—

(a) by striking out "Licensing Committee" wherever it occurs and substituting, in each case, "Board";

and

(b) by striking out from subsection (2) "Committee" wherever it occurs and substituting, in each case, "Board".

Repeal of Division III of Part IV.

13. Division III of Part IV of the principal Act is repealed.

Repeal of Division IV of Part IV and substitution of new Division.

14. Division IV of Part IV of the principal Act is repealed and the following Division is substituted:

DIVISION IV—HEN QUOTAS

Hen quotas.

22. (1) The State hen quota at the commencement of this Act is the aggregate of the hen quotas of individual licensees at that time.

(2) The State hen quota may be varied from time to time by the Board by notice in the *Gazette*.

(3) A notice under subsection (2) will not come into operation until one month after it is published in the *Gazette*.

(4) If the Board varies the State hen quota pursuant to subsection (2), there will be a proportionate variation in the quota of each licensee.

(5) Quotas will be calculated to the nearest whole number (0.5 being increased to 1.0).

(6) Where a licence is not renewed or a licence is cancelled, the State hen quota will be reduced by the quota attached to the licence.

(7) Where a licensee's hen quota is reduced there will be a corresponding reduction in the State hen quota.

(8) The hen quota attached to a licence must not exceed 50 000.

(9) A person must not hold, or have an interest in, more than one licence if the aggregate of the hen quotas attached to those licences would exceed 50 000.

(10) A person will be taken to have an interest in a licence if, and only if—

(a) the licence is held by a partnership and the person is a member of the partnership;

or

(b) the licence is held by a company and the person is a director or member of the company.

Amendment of s. 25—Surrender, etc., of licences.

15. Section 25 of the principal Act is amended—

(a) by striking out "Licensing Committee" wherever it occurs and substituting, in each case, "Board";

and

(b) by striking out subsections (3) and (4).

16. Section 26 of the principal Act is repealed. Repeal of s. 26.

17. Section 28 of the principal Act is amended— Amendment of s. 28— Permits.

(a) by striking out from subsection (1) "broiler breeder hens, or";

(b) by striking out from subsection (6) "five hundred dollars" and substituting "two hundred dollars";

(c) by striking out from subsection (6) "one hundred dollars" and substituting "forty dollars";

and

(d) by striking out "Licensing Committee" wherever it occurs and substituting, in each case, "Board".

18. Section 35 of the principal Act is amended by striking out "Licensing Committee" wherever it occurs and substituting, in each case, "Board". Amendment of s. 35— Appeals.

19. Section 36 of the principal Act is amended by striking out "to the members of the Licensing Committee and" and substituting "to the person who constitutes". Amendment of s. 36— Board responsible for costs of administration.

20. Section 38 of the principal Act is amended by striking out from paragraphs *(a)* and *(b)* of subsection (1) "twenty" and substituting, in each case, "fifty". Amendment of s. 38— Records.

21. Section 39 of the principal Act is amended— Amendment of s. 39— Board or Tribunal may require information from applicants.

(a) by striking out "Licensing Committee" wherever it occurs and substituting, in each case, "Board";

and

(b) by striking out from subsection (3) "Committee" wherever it occurs and substituting, in each case, "Board".

22. Section 40 of the principal Act is amended by striking out "Licensing Committee" and substituting "Board". Amendment of s. 40— Cancellation of licence.

23. Sections 41 and 42 of the principal Act are repealed. Repeal of ss. 41 and 42.

24. Section 43 of the principal Act is amended— Amendment of s. 43— Minister may require further information.

(a) by striking out "The Licensing Committee and the" and substituting "The";

and

(b) by striking out "the Licensing Committee or the Review Tribunal, as the case may be," and substituting "the Tribunal".

25. Section 46 of the principal Act is amended by striking out subsection (2). Amendment of s. 46— Offences by corporations.

26. Section 47 of the principal Act is repealed and the following section is substituted: Repeal of s. 47 and substitution of new section.

Board may grant exemption.

47. Where, in the opinion of the Board, it is desirable to exempt licensees from some or all of the provisions of this Act or the conditions of their licences—

(a) in order to enable them to take advantage of a temporary market for the sale of eggs;

or

(b) for any other reason,

the Board may, by notice in the *Gazette*, exempt them from such of the provisions of this Act or the conditions of their licences as are specified in the notice to the extent, and subject to the conditions, specified in the notice.

Amendment of s. 48—Regulations.

27. Section 48 of the principal Act is amended by striking out from paragraph *(a)* of subsection (1) "Licensing Committee" and substituting "Board".

Repeal of Division I of Part IX.

28. Division I of Part IX of the principal Act is repealed.

Amendment of s. 50—Polls on continuation of Act.

29. Section 50 of the principal Act is amended—

(a) by striking out subsections (1), (2), (3), (4) and (5) and substituting the following subsections:

(1) A poll will be held by the Electoral Commissioner under this section if a petition requesting such a poll is signed by at least one quarter of the licensees under this Act and is presented to the Minister.

(2) The question at the poll will be whether this Act should expire or remain in force.

(3) All licensees are entitled to vote at the poll.

(4) The poll will be conducted in such manner as the Electoral Commissioner thinks fit.

(5) Polls cannot be held under this section at intervals of less than three years.;

(b) by striking out from subsection (6) "on the recommendation of the returning officer for the State";

(c) by striking out from subsection (7) "sixty" and substituting "75";

and

(d) by striking out paragraph *(a)* of subsection (7).

Repeal of schedules.

30. The schedules to the principal Act are repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

FISHERIES (SOUTHERN ZONE ROCK LOBSTER FISHERY RATIONALIZATION) ACT, 1987

No. 59 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. The Southern Zone Rock Lobster Fishery Rationalization Authority
5. Procedure at meetings
6. Functions of the Authority
7. Authority may use State employees and facilities
8. Transfer of licences
9. Surrender of licences
10. Amount payable on surrender of licence to the Authority
11. Money expended for the purposes of this Act to be recouped from remaining licensees
12. Minister may borrow money for the purposes of this Act
13. Notice ending the rationalization period
14. Report
15. Regulations

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 59 of 1987

An Act to provide for the rationalization of rock lobster fishing in the Southern Zone; and for other purposes.

[*Assented to 17 September 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Fisheries (Southern Zone Rock Lobster Fishery Rationalization) Act, 1987".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation.

3. In this Act, unless the contrary intention appears—

"the Authority" means the Southern Zone Rock Lobster Fishery Rationalization Authority:

"the fishery" means the Southern Zone Rock Lobster Fishery:

"the Fund" means the Fisheries Research and Development Fund:

"licence" means a fishery licence in respect of the Southern Zone Rock Lobster Fishery:

"licensee" means the holder of a licence:

"the rationalization period" means the period commencing on the commencement of this Act and ending at the expiration of two years from that time or on publication of a notice pursuant to section 13 whichever occurs first:

"rock lobster pot" or "pot" means a trap for taking rock lobster:

"Southern Zone" means the waters defined as the Southern Zone by the Scheme of Management (Southern Zone Rock Lobster Fishery) Regulations, 1984:

"the Southern Zone port associations" means:

Kingston Fishermen's Association Incorporated

Robe Fishermen's Association Incorporated

Beachport Professional Fishermen's Association Incorporated

Southend Professional Fishermen's Association Incorporated

Carpenters Rocks Professional Fishermen's Association Incorporated

and

Port MacDonnell Professional Fishermen's Association Incorporated:

"Southern Zone ports" means the ports of Kingston, Robe, Beachport, Southend, Carpenters Rocks and Port MacDonnell:

"surcharge" means a surcharge imposed under section 11.

The Southern Zone Rock Lobster Fishery Rationalization Authority.

4. (1) The *Southern Zone Rock Lobster Fishery Rationalization Authority* is established.

(2) The Authority will consist of 18 members appointed by the Minister of whom—

(a) one will be the presiding member of the Authority;

(b) four will be appointed on the nomination of Port MacDonnell Professional Fishermen's Association Incorporated;

(c) two will be appointed on the nomination of Kingston Fishermen's Association Incorporated;

(d) two will be appointed on the nomination of Robe Fishermen's Association Incorporated;

(e) two will be appointed on the nomination of Beachport Professional Fishermen's Association Incorporated;

(f) two will be appointed on the nomination of Southend Professional Fishermen's Association Incorporated;

(g) two will be appointed on the nomination of Carpenters Rocks Professional Fishermen's Association Incorporated;

(h) one will be appointed on the nomination of the South Australian Fishing Industry Council;

(i) one will be an employee of the Department of Fisheries;

and

(j) one will be appointed on the nomination of the South Australian Government Financing Authority.

(3) The Minister may appoint a deputy to a member of the Authority and the deputy may, in the absence or during a temporary vacancy in the office of that member, act as a member of the Authority.

(4) A member of the Authority will be appointed on such conditions and for such term as the Minister determines.

(5) The office of a member of the Authority becomes vacant if the member—

(a) dies;

(b) completes a term of office and is not reappointed;

(c) resigns by written notice to the Minister;

or

(d) is removed from office by the Minister on the ground of—

(i) mental or physical incapacity to carry out official duties satisfactorily;

(ii) neglect of duty;

or

(iii) misconduct.

(6) The Authority is an instrumentality of the Crown and any liability arising from its acts or omissions, or those of its members, employees or agents in the exercise or purported exercise of official functions, attaches to the Crown.

Procedure at meetings.

5. (1) A meeting will be chaired by the presiding member or, in his or her absence, by a member chosen by the members present.

(2) Subject to subsection (3), the Authority may act notwithstanding vacancies in its membership.

(3) Ten members constitute a quorum at a meeting of the Authority.

(4) A decision in which a majority of the members present at a meeting concur is a decision of the Authority.

(5) Subject to this Act, the Authority may determine its own procedures.

(6) The Authority must keep minutes of its proceedings.

Functions of the Authority.

6. The functions of the Authority are—

(a) to accept surrenders of licences in accordance with this Act;

and

(b) to carry out the other functions assigned to the Authority by this Act.

Authority may use State employees and facilities.

7. The Authority may, with the approval of the Minister make use of employees or facilities of the State.

Transfer of licences.

8. (1) Subject to subsection (4), a licensee cannot transfer the licence to another person during the prescribed period.

(2) The prescribed period commences on the commencement of this Act and—

(a) if a notice is published pursuant to section 13—ends on publication of the notice;

but

(b) if such a notice is not published—ends at the expiration of 33 months from the commencement of this Act.

(3) Subject to subsection (4), a licensee cannot transfer his or her licence to another person after the end of the prescribed period unless the licensee has paid to the Minister any accrued liability for surcharge.

(4) This section does not prevent a licensee from transferring the licence to a member of his or her family.

Surrender of licences.

9. (1) A licensee may, by application in a form approved by the Minister, request the Authority to accept the surrender of the applicant's licence.

(2) The Authority must, in considering applications under subsection (1) during the first 18 months of the rationalization period, endeavour, as far as possible, to maintain relativity (as existing at the commencement of this Act) in the distribution of pots between the Southern Zone ports and for that purpose may defer an application.

(3) A person who holds a South Australian licence and who also holds a Commonwealth licence issued in conjunction with the South Australian licence cannot surrender the South Australian licence under this Act whilst continuing to hold the Commonwealth licence.

(4) A person who—

(a) is entitled, by virtue of a South Australian licence and a Victorian rock lobster authority to fish for rock lobster in the waters of the Southern Zone and in Victorian waters adjacent to the Southern Zone;

but

(b) is restricted to the use of one boat and one pot allocation in those waters by virtue of the terms of the licence and the authority,

cannot surrender the South Australian licence under this Act whilst continuing to hold the Victorian rock lobster authority.

(5) The Authority must not accept an application after the rationalization period has ended.

(6) Subject to this section, the Authority must accept applications in the order in which they are received.

(7) In this section—

"Commonwealth licence" means a fishing boat licence issued under the *Fisheries Act 1952* of the Commonwealth:

"South Australian licence" means a fishery licence in respect of the Southern Zone Rock Lobster Fishery:

"Victorian rock lobster authority" means an authority issued pursuant to the law of Victoria entitling the holder to use a boat and pots for rock lobster fishing in Victorian waters adjacent to the Southern Zone.

Amount payable on surrender of licence to the Authority.

10. (1) The Authority will, by notice published in the *Gazette* within three months from the commencement of this Act, fix the compensation for surrender of the right to use a rock lobster pot registered in respect of the fishery.

(2) The Minister will, within 21 days after the Authority accepts the surrender of a licence, pay the amount determined under subsection (3) from the Fund to the former licensee.

(3) The amount payable is—

(a) the amount fixed by the Authority under subsection (1) multiplied by the number of pots registered in respect of the licence;

less

(b) any amount owing by the licensee by way of surcharge.

Money expended for the purposes of this Act to be recouped from remaining licensees.

11. (1) For the purpose of defraying the net liabilities of the Fund under this Act, the Minister may, by notice in the *Gazette* on the recommendation of the Authority—

(a) impose a surcharge on the licence fees payable in respect of licences;

(b) vary the amount of a surcharge previously imposed.

(2) For the purposes of the Fisheries Act, 1982, the surcharge will be regarded as a component of the licence fee and, subject to any direction under subsection (3) will be payable and recoverable accordingly.

(3) The Minister may, by written notice to a licensee, give directions as to the payment of the surcharge, or any instalment of the surcharge.

(4) If a licensee fails to pay the surcharge or an instalment of the surcharge within 60 days of the date on which payment falls due, the Minister may, by notice in the *Gazette* on the recommendation of the Authority, cancel or suspend the licence.

(5) A reference in this section to the net liabilities of the Fund under this Act is a reference to—

(a) the aggregate of—

(i) the amounts paid to former licensees for the surrender of their licences;

(ii) the interest and charges in respect of loans under this Act;

and

(iii) the costs of administering this Act;

less

(b) the amount received by way of surcharges imposed under this Act.

Minister may borrow money for the purposes of this Act.

12. (1) The Minister may borrow money for the purposes of this Act.

(2) Money borrowed pursuant to subsection (1) must be paid into the Fund and liabilities incurred in respect of the borrowing will be met from the Fund.

Notice ending the rationalization period.

13. If the number of pots registered in respect of the fishery is reduced by 2 400 within two years after the commencement of this Act as a result of the surrender of licences under this Act, the Authority must, by notice in the *Gazette*, declare that the rationalization period is ended.

Report.

14. (1) The Authority will prepare reports on the administration of this Act up to the end of March, June, September and December in each year.

(2) The Authority will provide the Minister and the Southern Zone port associations with a copy of each report.

15. The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act. Regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 60 of 1987

An Act to amend the Justices Act, 1921.

[*Assented to 17 September 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Justices Act Amendment Act, 1987".

(2) The Justices Act, 1921, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Application of amendments.

3. The amendments made in this Act, insofar as they affect legal proceedings, apply to proceedings commenced either before or after the commencement of this Act.

Amendment of s. 4—Interpretation.

4. Section 4 of the principal Act is amended by inserting after the definition of "Senior Judge" the following definition:

"sexual offence" means—

(a) rape;

(b) indecent assault;

(c) any offence involving unlawful sexual intercourse or an act of gross indecency;

(d) incest;

or

(e) any attempt to commit or assault with intent to commit, any of the foregoing offences:.

Repeal of s. 106 and substitution of new section.

5. Section 106 of the principal Act is repealed and the following section is substituted:

Receipt of evidence of prosecution witnesses.

106. (1) Where a person appears before a justice charged with an indictable offence, the justice will, before deciding whether to

commit the defendant for trial, take the statements of the witnesses for the prosecution in the presence of the defendant.

(2) The statement of a witness for the prosecution may be taken—

(a) in the form of oral evidence;

(b) in the form of a written statement verified by a declaration in or to the effect of the following form:

> This statement, consisting of . . . pages signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.
>
> Dated the . . . . day of . . . . . , 19 .
>
> Signed . . . . . .
>
> Signature witnessed by . . . . . ;

(c) where the witness is a child—

(i) in the form of a written statement taken down by a member of the police force at an interview with the child and verified by affidavit of the member of the police force as an accurate record of the child's oral statements at the interview insofar as they are relevant to the subject-matter of the charge;

or

(ii) in the form of a videotape record of an interview with the child that is accompanied by a written transcript verified by affidavit of a member of the police force who was present at the interview as a complete record of the interview.

(3) Where a statement in the form of a written statement, videotape or transcript is submitted to the justice, and the justice accepts it as being relevant to, and admissible in, the proceedings, the statement will be regarded as having been duly taken by the justice.

(4) The relevance to the proceedings of any object tendered as an exhibit by the prosecutor may be proved by affidavit.

(5) No written statement, videotape or transcript may be submitted under subsection (2) and no affidavit may be submitted under subsection (4) unless—

(a) not less than 14 days before submission of the statement or affidavit the informant gives personally or by post to the defendant or the defendant's counsel—

(i) • in the case of a written statement or affidavit—a copy of the statement or affidavit;

• in the case of a videotape or transcript—a copy of the transcript and a statement of a time and place at which material recorded on the videotape may be viewed by the defendant and his or her legal representatives;

and

(ii) a notice drawing the attention of the defendant or the defendant's legal representative to the provisions of this section under which the personal attendance of the witness at the preliminary examination may be secured;

or

(b) the defendant consents to the submission of the statement, videotape, transcript or affidavit notwithstanding non-compliance with paragraph *(a)*.

(6) Where—

(a) a written statement, affidavit, videotape or transcript has been submitted to the justice;

(b) the defendant, before completion of the case for the prosecution, requests that the witness appear for the purpose of oral examination;

and

(c) either—

(i) the defendant has, at least seven days before making the request, notified the informant in writing of his or her intention to seek the personal attendance of the witness;

or

(ii) the justice is satisfied that there is good reason for excusing the defendant for failure to give notice in accordance with subparagraph (i),

then, subject to subsection (7), the witness will be called or summoned to appear for oral examination.

(7) The alleged victim of a sexual offence will not be called or summoned to appear under subsection (6) unless the justice is satisfied that there are special reasons for the oral examination of the alleged victim.

(8) Where a witness is called or summoned to appear for the purpose of oral examination, the witness may be examined, cross-examined and re-examined in the usual manner.

(9) Where—

(a) a statement, or a record of a statement is submitted under subsection (2);

(b) a material part of the statement is to the knowledge of the person who made it false or misleading,

that person is guilty of a misdemeanour.

Penalty: Imprisonment for two years.

(10) In this section—

(a) "child" means a person under the age of 10 years;

and

(b) a reference to a witness extends to any person by whom a statement or affidavit is made for the purposes of this section.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 61 of 1987

An Act to amend the Education Act, 1972.

[*Assented to 22 October 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Education Act Amendment Act, 1987".

(2) The Education Act, 1972, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 5—Interpretation.

3. Section 5 of the principal Act is amended by striking out from paragraph *(a)* of subsection (2) "full time".

Repeal of ss. 19 to 21 and substitution of new sections.

4. Sections 19 to 21 (inclusive) of the principal Act are repealed and the following sections are substituted:

Long service leave.

19. (1) An officer's entitlement to long service leave accrues as follows:

(a) the officer is entitled to 63 days' leave in respect of the first seven years of effective service;

(b) the officer is then entitled to 0.75 of a day's leave for each subsequent complete month of effective service until the end of the 15th year of effective service;

(c) the officer is then entitled to 1.25 days' leave for each subsequent complete month of effective service.

(2) Where long service leave is taken by an officer, the officer's entitlement to long service leave is reduced accordingly.

(3) Every day from the commencement to the conclusion of a period of long service leave (whether a working day or not) will be counted as a day of that leave.

(4) This Division—

(a) does not affect an entitlement to long service leave or payment in lieu of long service leave that accrued before the commencement of the Education Act Amendment Act, 1987;

and

(b) does not prejudice an entitlement to pro rata long service leave arising after five years' effective service that would have come into existence if the Education Act Amendment Act, 1987, had not been enacted.

Taking of long service leave.

20. (1) Subject to this section, an officer who has completed at least 10 years' effective service is entitled to take long service leave.

(2) The Director-General may permit an officer who has completed at least seven years' effective service to take long service leave.

(3) Long service leave may only be taken in respect of completed years of effective service.

(4) Long service leave may only be taken at times and for periods that are, in the opinion of the Director-General, convenient to the Department.

(5) Subject to this section, the salary to which an officer is entitled during long service leave is—

(a) where the effective service of an officer consists of full-time service—the salary applicable to the officer's substantive classification level during that leave (excluding any additional salary attributable to a higher classification level temporarily assigned to the officer);

(b) where the effective service of an officer consists in whole or in part of part-time service—a salary determined by the Director-General.

(6) An officer may elect to take long service leave on half salary and, in that event, may take two days' leave for each whole day of the officer's entitlement.

(7) Where the effective service of an officer consists in whole or in part of part-time service, the officer may elect to take long service leave on the salary applicable to full-time service and, in that event, the period of the long service leave will be reduced accordingly.

(8) The Director-General may authorize payment to an officer on long service leave of such additional salary or allowances as the Director-General considers appropriate.

Payment in lieu of long service leave.

21. (1) Where a person ceases to be an officer in the teaching service after not less than seven years' effective service, the person is entitled to payment of the monetary equivalent of the officer's long service leave entitlement as at the date of cessation of service.

(2) Where an officer dies, the Minister must pay to—

(a) the officer's personal representative;

or

(b) such of the officer's dependants as the Minister considers appropriate,

the monetary equivalent of the officer's long service leave entitlement as at the date of death.

(3) In determining the monetary equivalent of a long service leave entitlement no allowance will be made for an increase in salary that may or would have been made if the officer's service had not ceased.

(4) The Minister may apply any amount payable to or in respect of an officer under this section in satisfaction of a claim against the officer.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 62 of 1987

An Act to amend the Technical and Further Education Act, 1976.

[*Assented to 22 October 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Technical and Further Education Act Amendment Act, 1987".

(2) The Technical and Further Education Act, 1976, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 4—Interpretation.

3. Section 4 of the principal Act is amended by striking out from paragraph *(a)* of subsection (2) "full-time".

Repeal of ss. 19 to 21 and substitution of new sections.

4. Sections 19 to 21 (inclusive) of the principal Act are repealed and the following sections are substituted:

Long service leave.

19. (1) An officer's entitlement to long service leave accrues as follows:

(a) the officer is entitled to 63 days' leave in respect of the first seven years of effective service;

(b) the officer is then entitled to 0.75 of a day's leave for each subsequent complete month of effective service until the end of the 15th year of effective service;

(c) the officer is then entitled to 1.25 days' leave for each subsequent complete month of effective service.

(2) Where long service leave is taken by an officer, the officer's entitlement to long service leave is reduced accordingly.

(3) Every day from the commencement to the conclusion of a period of long service leave (whether a working day or not) will be counted as a day of that leave.

(4) This Division—

(a) does not affect an entitlement to long service leave or payment in lieu of long service leave that accrued before the commencement of the Technical and Further Education Act Amendment Act, 1987;

and

(b) does not prejudice an entitlement to pro rata long service leave arising after five years' effective service that would have come into existence if the Technical and Further Education Act Amendment Act, 1987, had not been enacted.

Taking of long service leave.

20. (1) Subject to this section, an officer who has completed at least 10 years' effective service is entitled to take long service leave.

(2) The Director-General may permit an officer who has completed at least seven years' effective service to take long service leave.

(3) Long service leave may only be taken in respect of completed years of effective service.

(4) Long service leave may only be taken at times and for periods that are, in the opinion of the Director-General, convenient to the Department.

(5) Subject to this section, the salary to which an officer is entitled during long service leave is—

(a) where the effective service of an officer consists of full-time service—the salary applicable to the officer's substantive classification level during that leave (excluding any additional salary attributable to a higher classification level temporarily assigned to the officer);

(b) where the effective service of an officer consists in whole or in part of part-time service—a salary determined by the Director-General.

(6) An officer may elect to take long service leave on half salary and, in that event, may take two days' leave for each whole day of the officer's entitlement.

(7) Where the effective service of an officer consists in whole or in part of part-time service, the officer may elect to take long service leave on the salary applicable to full-time service and, in that event, the period of the long service leave will be reduced accordingly.

(8) The Director-General may authorize payment to an officer on long service leave of such additional salary or allowances as the Director-General considers appropriate.

Payment in lieu of long service leave.

21. (1) Where a person ceases to be an officer in the teaching service after not less than seven years' effective service, the person is entitled to payment of the monetary equivalent of the officer's long service leave entitlement as at the date of cessation of service.

(2) Where an officer dies, the Minister must pay to—

(a) the officer's personal representative;

or

(b) such of the officer's dependants as the Minister considers appropriate,

the monetary equivalent of the officer's long service leave entitlement as at the date of death.

(3) In determining the monetary equivalent of a long service leave entitlement no allowance will be made for an increase in salary that may or would have been made if the officer's service had not ceased.

(4) The Minister may apply any amount payable to or in respect of an officer under this section in satisfaction of a claim against the officer.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 63 of 1987

An Act to amend the Constitution Act, 1934.

[*Assented to 22 October 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Constitution Act Amendment Act, 1987".

(2) The Constitution Act, 1934, is in this Act referred to as "the principal Act".

Amendment of s. 65—Number of Ministers of the Crown.

2. Section 65 of the principal Act is amended by striking out from subsection (2) ": Provided that a Minister shall not bear the titles or fill the ministerial offices of Minister of Agriculture and Minister of Lands at the same time".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 64 of 1987

An Act to amend the Planning Act, 1982.

[*Assented to 29 October 1987*]

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Planning Act Amendment Act (No. 2), 1987". Short title.

(2) The Planning Act, 1982, is in this Act referred to as "the principal Act".

2. This Act will come into operation on a day to be fixed by proclamation. Commencement.

3. Section 10 of the principal Act is amended— Amendment of s. 10—

(a) by striking out subsections (1), (2), (3), (4), (5) and (6) and substituting the following subsections: Membership of the Commission.

(1) The Commission consists of the following members appointed by the Governor—

(a) a Chairman;

(b) a Deputy Chairman;

(c) a person with practical knowledge of, and experience in, local government chosen from a panel of three such persons submitted to the Minister by the Local Government Association;

(d) a person with practical knowledge of, and experience in, urban development, commerce, industry or building or landscape design;

and

(e) a person with practical knowledge of, and experience in, environmental management, the management of natural resources or the provision of community facilities.

(2) The Chairman and Deputy Chairman—

(a) must be corporate members of the Royal Australian Planning Institute Incorporated;

or

(b) must have qualifications and experience in urban and regional planning, environmental management or a related discipline that are, in the opinion of the Governor, appropriate to the Chairman's functions and duties under this Act.

(3) At least one member of the Commission must be a woman and at least one member must be a man.;

and

(b) by striking out from paragraph *(b)* of subsection (7) "a part-time member" and substituting "other members".

Amendment of s. 11— Procedures of the Commission.

4. Section 11 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsections:

(2) Three members (one of whom must be the Chairman or the Deputy Chairman) constitute a quorum of the Commission.

(3) The Chairman will preside at meetings of the Commission but in the absence of the Chairman the Deputy Chairman will preside at the meeting.

(3a) A question arising before the Commission will be determined in accordance with the opinion of a majority of the members present or, where they are equally divided in opinion, in accordance with the opinion of the person presiding at the meeting.

Insertion of new s. 11a.

5. The following section is inserted after section 11 of the principal Act:

Immunity of members of Commission.

11a. (1) No liability attaches to a member of the Commission, for any act or omission by the member, or by the Commission, in good faith and in the exercise, or purported exercise, of powers or functions or in the discharge, or purported discharge, of duties under this Act.

(2) A liability that would, but for subsection (1), attach to a member of the Commission, attaches instead to the Crown.

Amendment of s. 14— Constitution of the Committee.

6. Section 14 of the principal Act is amended—

(a) by striking out subsection (2) and substituting the following subsections:

(2) The Advisory Committee consists of the following members appointed by the Governor—

(a) a person who—

(i) is a corporate member of the Royal Australian Planning Institute Incorporated;

or

(ii) has qualifications and experience in urban and regional planning, environmental management or a related discipline;

(b) two persons with wide experience of local government;

(c) a person with wide experience in environmental matters;

(d) a person with wide experience of commerce and industry;

(e) a person with wide experience in rural affairs;

(f) a person with wide experience of housing or urban development;

and

(g) a person with wide experience of the utilities and services that form the infrastructure of urban development.

(2a) In making appointments to the Advisory Committee the Governor must have regard to the need for the Committee to be sensitive to cultural diversity in the population of the State.

(2b) The Governor will appoint a member of the Committee to preside at its meetings.;

and

(b) by striking out from subsections (4) and (5) ", appointed by the Governor, shall" and substituting, in each case, "will".

Amendment of s. 43— Interim development control.

7. Section 43 of the principal Act is amended by striking out paragraph *(d)* of subsection (3) and substituting the following paragraph:

(d) in the case of a plan—

(i) that has not already ceased to operate by virtue of paragraph *(a)*;

and

(ii) that has not been referred by the Minister to the Joint Committee on Subordinate Legislation,

at the expiration of 12 months from the day on which it came into operation.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 65 of 1987

An Act to amend the Business Franchise (Petroleum Products) Act, 1979.

[*Assented to 29 October 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Business Franchise (Petroleum Products) Act Amendment Act, 1987".

(2) The Business Franchise (Petroleum Products) Act, 1979, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on 1 November, 1987.

Insertion of new s. 4a.

3. The following section is inserted after section 4 of the principal Act:

Division of the State into zones.

4a. (1) Subject to subsection (2), the State is divided into zones as follows:

(a) zone 1 is that part of the mainland of the State that lies within a radius of 50 kilometres from the General Post Office at Adelaide;

(b) zone 2 is that part of the mainland of the State (excluding Yorke Peninsula) that lies outside zone 1 but within a radius of 100 kilometres from the General Post Office at Adelaide;

and

(c) zone 3 consists of all parts of the State outside zone 1 and zone 2.

(2) The Governor may, if satisfied that it is necessary to do so in order to achieve equity between vendors of petroleum products, make a regulation varying the boundaries of a zone to such extent as may be necessary for that purpose.

Amendment of s. 15—Inspectors.

4. Section 15 of the principal Act is amended by striking out from subsection (1) "Minister" and substituting "Commissioner".

5. Section 16 of the principal Act is amended— Amendment of s. 16— Powers of an inspector.

(a) by striking out from subsection (1) "without any warrant other than this section";

(b) by inserting after paragraph *(a)* of subsection (1) the following paragraph:

(ab) search the premises for records related to dealings with petroleum products;;

(c) by inserting after subsection (1) the following subsections:

(1a) An Inspector must not exercise force to break into premises or anything on premises unless authorized to do so by warrant issued by a magistrate.

(1b) A magistrate may issue such a warrant if satisfied that the warrant is reasonably required for the purposes of the administration or enforcement of this Act.;

and

(d) by striking out from subsection (5) "proceedings, civil or criminal" and substituting "criminal proceedings".

6. Section 18 of the principal Act is amended— Amendment of s. 18— Fees.

(a) by striking out paragraph *(a)* of subsection (1) and substituting the following paragraph:

(a) for a class A licence—$50 plus—

(i) 10 per cent of the value of motor spirit and 12.2 per cent of the value of diesel fuel sold by the applicant during the relevant period and destined for consumption in zone 1;

(ii) 7.7 per cent of the value of motor spirit and 10 per cent of the value of diesel fuel sold by the applicant during the relevant period and destined for consumption in zone 2;

and

(iii) 5.5 per cent of the value of motor spirit and 7.7 per cent of the value of diesel fuel sold by the applicant during the relevant period and destined for consumption in zone 3;;

(b) by striking out subsections (2) and (3) and substituting the following subsection:

(2) For the purposes of subsection (1)—

(a) if the applicant for a Class A licence is, or was during the relevant period, a member of a group, all members of the group will be treated as applicants for the purpose of calculating the licence fee;

(b) petroleum products sold by an applicant will be taken to have been destined for consumption in zone 1 unless it is established to the Commissioner's satisfaction that they were destined for consumption in zone 2 or zone 3;

(c) petroleum products will be taken to be destined for consumption in zone 2 or zone 3 if and only if it is established to the Commissioner's satisfaction—

(i) that they were sold by retail, and delivered in pursuance of that sale, from a place of business in the relevant zone;

or

(ii) that they were delivered at a place of business within the relevant zone for the purpose of retail sale and delivery from that place of business;

(d) the following amounts will be disregarded in calculating the fee for a Class A licence—

(i) the value of petroleum products sold by the applicant (being at the time of the sale the holder of a Class A licence) to another holder of a Class A licence for the purpose of resale;

(ii) the value of petroleum products sold for delivery and consumption outside the State;

(iii) the value of diesel fuel sold for some purpose other than the propulsion of diesel engined road vehicles.;

(c) by striking out subsections (4) to (8) and substituting the following subsections:

(4) For the purpose of determining the fee for a Class A licence, the value of motor spirit and diesel fuel sold during a particular relevant period will be calculated by reference to a value per litre fixed by or under this Act and in force as at the commencement of the relevant period.

(5) The Governor may, by regulation—

(a) fix a value per litre for motor spirit;

and

(b) fix a value per litre for diesel fuel.

(6) A value fixed under subsection (5) must not exceed a value representing, in the Minister's opinion, a reasonable average wholesale price for motor spirit or diesel fuel (as the case requires) in the State as at the date of the regulation.

(7) Until a valuation of motor spirit and diesel fuel is made under subsection (5), the value of both motor spirit and diesel fuel will be taken to be 45 cents per litre.

(8) The valuation under subsection (7) will be taken to have come into force on 1 September, 1987 (and it will revive if a valuation made under subsection (5) is disallowed and the disallowance does not result in the revival of a previous valuation under an earlier regulation).;

and

(d) by inserting after subsection (12) the following subsection:

(13) The Commissioner may make an appropriate reduction in the fee for a class B licence if the licence is to be in force for less than 12 months.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 66 of 1987

An Act for the appropriation of money from the Consolidated Account for the year ending on 30 June, 1988, and for other purposes.

[*Assented to 29 October 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Appropriation Act, 1987".

Commencement.

2. This Act will be deemed to have come into operation on 1 July, 1987.

Interpretation.

3. In this Act—

"Supply Act" means an Act that is known as a Supply Act and that appropriates money from the Consolidated Account in respect of the year ending on 30 June, 1988.

Issue and application of money.

4. (1) The Treasurer may, in accordance with this section on or before 30 June, 1988, issue and apply money from the Consolidated Account for the purposes listed in the first schedule.

(2) The aggregate of the amounts issued and applied by the Treasurer under subsection (1) and under Supply Acts for the purposes listed in the first schedule must not exceed the amounts set out opposite those purposes in that schedule.

(3) Money may be issued and applied under subsection (1) in respect of liabilities or financial commitments that were incurred or made before 1 July, 1987.

Expenditure from Hospitals Fund.

5. The Treasurer may issue and apply money from the account in the Treasury known as the "Hospitals Fund" for the provision, maintenance, development and improvement of public hospitals and equipment used in public hospitals.

Appropriation, etc., in addition to other appropriations, etc.

6. Money may be appropriated, issued or applied under this Act in addition to any money that may be appropriated, issued or applied under any other Act.

Overdraft limit.

7. The overdraft limit for the purposes of section 16 (3) of the Public Finance and Audit Act, 1987, is twenty million dollars.

SCHEDULES

FIRST SCHEDULE

Amounts proposed to be expended from the Consolidated Account during the financial year ending 30 June, 1988

Estimates 1987-88.

Purposes of Appropriation	Estimated Payments
	$
Legislative Council	982 000
House of Assembly	1 901 000
Parliamentary Public Accounts Committee	201 000
Parliamentary Standing Committee on Public Works	80 000
Joint Parliamentary Service	5 485 000
State Governor's Establishment	657 000
Premier and Cabinet	6 390 000
Office of the Government Management Board	2 139 000
Premier, Miscellaneous	85 000
Treasury	510 899 000
Treasurer, Miscellaneous	84 358 000
Arts	32 888 000
Environment and Planning	29 811 000
Deputy Premier and Minister for Environment and Planning, Miscellaneous	971 000
Auditor-General's	3 656 000
Police	158 191 000
Minister of Emergency Services, Miscellaneous	9 927 000
Engineering and Water Supply	158 961 000
Minister of Water Resources, Miscellaneous	162 000
Attorney-General's	14 680 000
Court Services	27 332 000
Electoral	1 297 000
Attorney-General, Miscellaneous	9 721 000
Public and Consumer Affairs	21 037 000
Corporate Affairs Commission	4 993 000
Lands	34 927 000
Minister of Lands, Minister of Forests and Minister of Repatriation, Miscellaneous	295 000
Marine and Harbors	27 542 000
Minister of Marine, Miscellaneous	1 566 000
Minister of Health, Miscellaneous	800 665 000
Community Welfare	123 022 000
State Development and Technology	19 660 000
Minister of State Development and Technology, Miscellaneous	6 876 000
Technical and Further Education	116 688 000
Office of Employment and Training	21 097 000
Minister of Employment and Further Education, Miscellaneous	208 444 000
Transport	34 401 000
Highways	49 493 000
Services and Supply	12 344 000
Minister of Transport, Miscellaneous	117 380 000
Mines and Energy	21 374 000
Education	704 992 000
Minister of Education and Minister of Aboriginal Affairs, Miscellaneous	47 215 000
Children's Services Office	38 030 000
Housing and Construction	218 264 000
Labour	11 617 000
Personnel and Industrial Relations	7 467 000
Correctional Services	44 810 000
Tourism	9 894 000
Minister of Tourism and Minister Assisting the Minister for the Arts, Miscellaneous	3 676 000
Local Government	81 151 000
Agriculture	47 702 000
Minister of Agriculture, Miscellaneous	16 794 000
Fisheries	5 186 000
Recreation and Sport	7 085 000
Works and Services (Payments of a Capital Nature) details of which are set out in the Second Schedule	616 760 000
Total	4 543 221 000

SECOND SCHEDULE

Details of proposed Works and Services (Payments of a Capital Nature) during the financial year ending 30 June, 1988

Purpose	Estimated Payments	
	$	$
DEPARTMENT OF THE PREMIER AND CABINET		
Provision for Bicentennial Celebrations		6 767 000
TREASURY DEPARTMENT		
Commonwealth funds for Non-Government Schools	4 000 000	
Purchase of Motor Vehicles for Various Government Departments	2 387 000	
		6 387 000
DEPARTMENT FOR THE ARTS		
Capital Purposes generally		1 829 000
DEPARTMENT OF ENVIRONMENT AND PLANNING		
Conservation, Open Space and Recreation Purposes		4 487 000
POLICE DEPARTMENT		
Capital Purposes generally		11 800 000
COUNTRY FIRE SERVICES BOARD		
Capital Purposes generally		1 100 000
ENGINEERING AND WATER SUPPLY DEPARTMENT		
Waterworks, Sewers and Irrigation	63 800 000	
River Murray Works	1 880 000	
River Torrens Works	800 000	
Brukunga Mine	200 000	
		66 680 000
SOUTH-EASTERN DRAINAGE BOARD		
Capital Purposes generally		200 000
ATTORNEY-GENERAL'S DEPARTMENT		
Development of Justice Information System		2 810 000
COURT SERVICES DEPARTMENT		
Development of computer facilities		2 600 000
DEPARTMENT OF LANDS		
Capital Purposes generally		6 065 000
WOODS AND FORESTS DEPARTMENT		
Capital Purposes generally		2 600 000
DEPARTMENT OF MARINE AND HARBORS		
Harbor Facilities and Services	6 300 000	
Small Craft Facilities	450 000	
Lincoln Cove Development	875 000	
		7 625 000
SOUTH AUSTRALIAN HEALTH COMMISSION		
Capital Purposes generally		36 524 000
DEPARTMENT OF STATE DEVELOPMENT AND TECHNOLOGY		
South Australian Centre for Manufacturing	810 000	
Provision of infrastructure support for Whyalla	5 562 000	
		6 372 000
DEPARTMENT OF TECHNICAL AND FURTHER EDUCATION		
Capital Purposes generally		2 500 000
OFFICE OF TERTIARY EDUCATION		
Provision for Nurse Education Program	10 540 000	
Provision of Commonwealth funds for higher education	20 540 000	
		31 080 000
DEPARTMENT OF TRANSPORT		
Capital Purposes generally		1 215 000
HIGHWAYS DEPARTMENT		
Stormwater Drainage	2 600 000	
Transfer of Commonwealth Grants to the Highways Fund	75 400 000	
		78 000 000
DEPARTMENT OF SERVICES AND SUPPLY		
Capital Purposes generally		4 310 000

SECOND SCHEDULE—*continued*

Details of proposed Works and Services (Payments of a Capital Nature) during the financial year ending 30 June, 1988

Purpose	Estimated Payments	
	$	$
STATE TRANSPORT AUTHORITY		
Capital Purposes generally		13 730 000
DEPARTMENT OF MINES AND ENERGY		
Capital Purposes generally	1 700 000	
Roxby Downs Infrastructure	22 000 000	
		23 700 000
EDUCATION DEPARTMENT		
Capital Purposes generally		5 500 000
CHILDREN'S SERVICES OFFICE		
Capital Purposes generally		400 000
DEPARTMENT OF HOUSING AND CONSTRUCTION		
Office of Housing	178 378 000	
Government Employee Housing	1 010 000	
Education Department Buildings	29 387 000	
Technical and Further Education Buildings	12 360 000	
Children's Services Buildings	6 500 000	
Other Government Buildings	48 400 000	
		276 035 000
DEPARTMENT OF TOURISM		
Capital Purposes generally		2 347 000
DEPARTMENT OF LOCAL GOVERNMENT		
Capital Purposes generally		2 488 000
DEPARTMENT OF AGRICULTURE		
Capital Purposes generally		2 970 000
DEPARTMENT OF FISHERIES		
Capital Purposes generally		1 114 000
DEPARTMENT OF RECREATION AND SPORT		
Capital Purposes generally		7 525 000
Total		616 760 000

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

JURISDICTION OF COURTS (CROSS-VESTING) ACT, 1987

No. 67 of 1987

SUMMARY OF PROVISIONS

Section

1. Short title
2. Commencement
3. Interpretation
4. Vesting of additional jurisdiction in certain courts
5. Transfer of proceedings
6. Special federal matters
7. Institution and hearing of appeals
8. Orders by Supreme Court
9. Exercise of jurisdiction pursuant to cross-vesting laws
10. Transfer of matters arising under Division 1 or 1A of Part V of the *Trade Practices Act* (Cth.)
11. Conduct of proceedings
12. Orders as to costs
13. Limitation on appeals
14. Enforcement and effect of judgments
15. Suspension or cessation of operation of Act

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 67 of 1987

An Act relating to the cross-vesting of certain jurisdiction.

[*Assented to 29 October 1987*]

Preamble:

1. *Inconvenience and expense have occasionally been caused to litigants by jurisdictional limitations in federal, State and Territory courts:*
2. *It is desirable—*
   - *(a) to establish a system of cross-vesting of jurisdiction between those courts, without detracting from the existing jurisdiction of any court;*
   - *(b) to structure the system in such a way as to ensure as far as practicable that proceedings concerning matters which, apart from this Act and any law of the Commonwealth or another State relating to cross-vesting of jurisdiction, would be entirely or substantially within the jurisdiction (other than any accrued jurisdiction) of the Federal Court or the Family Court or the jurisdiction of a Supreme Court of a State or Territory are instituted and determined in that court, whilst providing for the determination by one court of federal and State matters in appropriate cases;*

   and

   - *(c) if a proceeding is instituted in a court that is not the appropriate court, to provide a system under which the proceeding will be transferred to the appropriate court:*

The Parliament of South Australia enacts as follows:

Short title.

1. This Act may be cited as the "Jurisdiction of Courts (Cross-vesting) Act, 1987".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation.

3. (1) In this Act—

"Family Court" means the Family Court of Australia:

"Federal Court" means the Federal Court of Australia:

"Full Court", in relation to a Supreme Court of a State, includes any court of the State to which appeals lie from a single judge of that Supreme Court:

"judgment" means a judgment, decree or order, whether final or interlocutory:

"party", in relation to a proceeding, includes a person who intervenes in the proceeding:

"proceeding" does not include a criminal proceeding:

"special federal matter" has the same meaning as in the *Jurisdiction of Courts (Cross-vesting) Act 1987* of the Commonwealth[1]:

21/1994.

"State" includes the Northern Territory and the Australian Capital Territory:

"State Family Court", in relation to a State, means a court of that State to which section 41 of the *Family Law Act 1975* of the Commonwealth applies by virtue of a proclamation made under section 41 (2) of that Act:

"State matter" means—

(a) a matter in which the Supreme Court has jurisdiction otherwise than by reason of a law of the Commonwealth or of another State;

or

(b) a matter removed to the Supreme Court under section 8:

21/1994.

"Territory" does not include the Northern Territory or the Australian Capital Territory.

(2) A reference in this Act, other than a reference in section 4 (3), to the Supreme Court of a State includes, if there is a State Family Court of that State, a reference to that State Family Court.

(3) In this Act, a reference to a Commonwealth Act is a reference to that Act, as amended from time to time.

Vesting of additional jurisdiction in certain courts.

4. (1) The Federal Court has and may exercise original and appellate jurisdiction with respect to State matters.

(2) The Family Court has and may exercise original and appellate jurisdiction with respect to State matters.

(3) The Supreme Court of another State or of a Territory has and may exercise original and appellate jurisdiction with respect to State matters.

(4) The State Family Court of another State has and may exercise original and appellate jurisdiction with respect to State matters.

(5) This section does not—

(a) invest the Federal Court, the Family Court or a Supreme Court with;

or

(b) confer on any such court,

jurisdiction with respect to criminal matters.

Transfer of proceedings.

5. (1) Where—

(a) a proceeding (in this subsection referred to as the "relevant proceeding") is pending in the Supreme Court;

and

(b) (i) it appears to the Supreme Court that the relevant proceeding arises out of, or is related to, another proceeding pending in the Federal Court or the Family Court and it is more appropriate that the relevant proceeding be determined by the Federal Court or the Family Court;

(ii) it appears to the Supreme Court that having regard to—

(A) whether, in the opinion of the Supreme Court, apart from this Act and any law of the Commonwealth or another State relating to cross-vesting of jurisdiction and apart from any accrued jurisdiction of the Federal Court or the Family Court, the relevant proceeding or a substantial part of the relevant proceeding would have been incapable of being instituted in the Supreme Court and capable of being instituted in the Federal Court or the Family Court;

(B) the extent to which, in the opinion of the Supreme Court, the matters for determination in the relevant proceeding are matters arising under or involving questions as to the application, interpretation or validity of a law of the Commonwealth and not within the jurisdiction of the Supreme Court apart from this Act and any law of the Commonwealth or another State relating to cross-vesting of jurisdiction;

and

(C) the interests of justice,

it is more appropriate that the relevant proceeding be determined by the Federal Court or the Family Court, as the case may be;

or

(iii) it appears to the Supreme Court that it is otherwise in the interests of justice that the relevant proceeding be determined by the Federal Court or the Family Court,

the Supreme Court shall transfer the relevant proceeding to the Federal Court or the Family Court, as the case may be.

(2) Where—

(a) a proceeding (in this subsection referred to as the "relevant proceeding") is pending in the Supreme Court (in this subsection referred to as the "first court");

and

(b) (i) it appears to the first court that the relevant proceeding arises out of, or is related to, another proceeding pending in the Supreme Court of another State or of a Territory and it is more appropriate that the relevant proceeding be determined by that other Supreme Court;

(ii) it appears to the first court that having regard to—

(A) whether, in the opinion of the first court, apart from this Act and any law of the Commonwealth or another State relating to cross-vesting of jurisdiction, the relevant proceeding or a substantial part of the relevant proceeding would have been incapable of being instituted in the first court and capable of being instituted in the Supreme Court of another State or Territory;

(B) the extent to which, in the opinion of the first court, the matters for determination in the relevant proceeding are matters arising under or involving questions as to the application, interpretation or validity of a law of the State or Territory referred to in subsubparagraph (A) and not within the jurisdiction of the first court apart from this Act and any law of the Commonwealth or another State relating to cross-vesting of jurisdiction;

and

(C) the interests of justice,

it is more appropriate that the relevant proceeding be determined by that other Supreme Court;

or

(iii) it appears to the first court that it is otherwise in the interests of justice that the relevant proceeding be determined by the Supreme Court of another State or of a Territory,

the first court shall transfer the relevant proceeding to that other Supreme Court.

(3) Where—

(a) a proceeding (in this subsection referred to as the "relevant proceeding") is pending in the Supreme Court of another State or of a Territory (in this subsection referred to as the "first court");

and

(b) (i) it appears to the first court that the relevant proceeding arises out of, or is related to, another proceeding pending in the Supreme Court of South Australia and it is more appropriate that the relevant proceeding be determined by the Supreme Court of South Australia;

(ii) it appears to the first court that having regard to—

(A) whether, in the opinion of the first court, apart from this Act and any law of the Commonwealth or another State relating to cross-vesting of jurisdic-

tion, the relevant proceeding or a substantial part of the relevant proceeding would have been incapable of being instituted in the first court and capable of being instituted in the Supreme Court of South Australia;

(B) the extent to which, in the opinion of the first court, the matters for determination in the relevant proceeding are matters arising under or involving questions as to the application, interpretation or validity of a law of the State and not within the jurisdiction of the first court apart from this Act and any law of the Commonwealth or another State relating to cross-vesting of jurisdiction;

and

(C) the interests of justice,

it is more appropriate that the relevant proceeding be determined by the Supreme Court of South Australia;

or

(iii) it appears to the first court that it is otherwise in the interests of justice that the relevant proceeding be determined by the Supreme Court of South Australia,

the first court shall transfer the relevant proceeding to the Supreme Court of South Australia.

(4) Where—

(a) a proceeding (in this subsection referred to as the "relevant proceeding") is pending in the Federal Court or the Family Court (in this subsection referred to as the "first court");

and

(b) (i) it appears to the first court that the relevant proceeding arises out of, or is related to, another proceeding pending in the Supreme Court and it is more appropriate that the relevant proceeding be determined by the Supreme Court;

(ii) it appears to the first court that having regard to—

(A) whether, in the opinion of the first court, apart from this Act and any law of the Commonwealth or another State relating to cross-vesting of jurisdiction, the relevant proceeding or a substantial part of the relevant proceeding would have been incapable of being instituted in the first court and capable of being instituted in the Supreme Court;

(B) the extent to which, in the opinion of the first court, the matters for determination in the relevant proceeding are matters arising under or involving questions as to the application, interpretation or validity of a law of the State and not within the jurisdiction of the first court apart from this Act and any law of the Commonwealth or another State relating to cross-vesting of jurisdiction;

and

(C) the interests of justice,

it is more appropriate that the relevant proceeding be determined by the Supreme Court,

or

(iii) it appears to the first court that it is otherwise in the interests of justice that the relevant proceeding be determined by the Supreme Court,

the first court shall transfer the relevant proceeding to the Supreme Court.

(5) Where—

(a) a proceeding (in this subsection referred to as the "relevant proceeding") is pending in the Federal Court or the Family Court (in this subsection referred to as the "first court");

and

(b) it appears to the first court that—

(i) the relevant proceeding arises out of, or is related to, another proceeding pending in the other of the courts referred to in paragraph *(a)* and it is more appropriate that the relevant proceeding be determined by that other court;

or

(ii) it is otherwise in the interests of justice that the relevant proceeding be determined by the other of the courts referred to in paragraph *(a)*,

the first court shall transfer the relevant proceeding to that other court.

(6) Where—

(a) a court (in this subsection referred to as the "first court") transfers a proceeding to another court under a law or laws relating to cross-vesting of jurisdiction;

and

(b) it appears to the first court that—

(i) there is another proceeding pending in the first court that arises out of, or is related to, the first mentioned proceeding;

and

(ii) it is in the interests of justice that the other proceeding be determined by the other court,

the first court shall transfer the other proceeding to the other court.

(7) A court may transfer a proceeding under this section on the application of a party to the proceeding, of its own motion or on the application of the Attorney-General of the Commonwealth or of a State or Territory.

(8) A person who is entitled to practise as a barrister or a solicitor, or as both a barrister and a solicitor, in a court has, if a proceeding (in this subsection referred to as the "transferred proceeding") in that court is transferred to another court under a law or laws relating to cross-vesting of jurisdiction, the same entitlement to practise in relation to—

(a) the transferred proceeding;

and

(b) any other proceeding out of which the transferred proceeding arises or to which the transferred proceeding is related, being another proceeding that is to be determined together with the transferred proceeding,

in the other court that the person would have if the other court were a federal court exercising federal jurisdiction.

Special federal matters.

6. (1) Where a matter for determination in a proceeding that is pending in the Supreme Court is a special federal matter, the Supreme Court shall transfer the proceeding to the Federal Court unless the Supreme Court makes an order that the proceeding be determined by the Supreme Court.

(2) The Supreme Court shall not make an order under subsection (1) that the court determine a proceeding unless it appears to the Supreme Court that, by reason of the particular circumstances of the case—

(a) it is not appropriate that the proceeding be transferred to the Federal Court;

and

(b) it is appropriate that the Supreme Court determine the proceeding.

deleted and substituted 34/1993

(3) Where the Supreme Court makes an order under subsection (1) in relation to a proceeding, it is the duty of the Supreme Court not to proceed to determine the proceeding until the Supreme Court is satisfied that—

(a) a notice in writing stating that the order has been made and specifying the nature of the special federal matter for determination in the proceeding has been given to the Attorney-General of the Commonwealth;

and

(b) a reasonable time has elapsed since the giving of the notice for consideration by the Attorney-General of the Commonwealth of the question whether action should be taken under subsection (6) in relation to the proceeding.

(4) For the purposes of this section, the Supreme Court—

(a) may adjourn for such time as the Supreme Court thinks necessary a proceeding referred to in subsection (1) that is pending and may make such order as to costs in relation to an adjournment as it thinks fit;

and

(b) may direct a party to the proceeding to give a notice in accordance with subsection (3).

(5) Nothing in this section prevents the Supreme Court granting urgent relief of an interlocutory nature where it is in the interests of justice to do so.

(6) The Attorney-General of the Commonwealth may request the Supreme Court to transfer to the Federal Court a proceeding referred to in subsection (1) that is pending and, where such a request is made, the Supreme Court shall transfer the proceeding to the Federal Court.

(7) Where, through inadvertence, the Supreme Court determines a proceeding of the kind referred to in subsection (1) without—

(a) the Supreme Court making an order under that subsection that the proceeding be determined by the Supreme Court;

or

(b) a notice in accordance with subsection (3) being given to the Attorney-General of the Commonwealth in relation to the proceeding,

nothing in this section invalidates the decision of the Supreme Court.

(8) This section does not apply to a proceeding by way of an appeal that is instituted in the Full Court of the Supreme Court if—

(a) the court the decision of which is the subject of the appeal had made an order under subsection (1) in relation to the special federal matter;

and

(b) the Attorney-General of the Commonwealth did not request the court referred to in paragraph *(a)* to transfer the proceeding to the Federal Court.

Institution and hearing of appeals.

7. (1) An appeal shall not be instituted from a decision of a single judge of the Federal Court or the Family Court to the Full Court of the Supreme Court.

(2) An appeal shall not be instituted from the Federal Court or the Family Court to the other of those courts.

(3) Where it appears that the only matters for determination in a proceeding by way of an appeal from a decision of a single judge of the Supreme Court are matters other than matters arising under an Act specified in the schedule to the *Jurisdiction of Courts (Cross-vesting) Act 1987* of the Commonwealth, that proceeding shall be instituted only in, and shall be determined only by, the Full Court of the Supreme Court.

(4) Subject to subsections (6) and (7), where it appears that a matter for determination in a proceeding by way of an appeal from a decision of a single judge of the Supreme Court (not being a proceeding to which subsection (5) applies) is a matter arising under an Act specified in the schedule referred to in subsection (3), that proceeding shall be instituted only in, and shall be determined only by—

(a) the Full Court of the Federal Court or of the Family Court, as the case requires;

or

(b) with special leave of the High Court, the High Court.

(5) A proceeding by way of an appeal from a decision of a judge of a State Family Court, being a proceeding involving the determination of—

(a) a matter arising under an Act specified in the schedule referred to in subsection (3);

and

(b) another matter,

may be dealt with as if no matter for determination in the proceeding were a matter arising under an Act specified in that schedule.

(6) Where—

(a) the Full Court of the Supreme Court commences to hear a proceeding by way of an appeal;

and

(b) before the Court determines the proceeding, it appears to the Court that the proceeding is a proceeding to which subsection (4) applies,

the Court shall, unless the interests of justice require that the Court proceed to determine the proceeding, transfer the proceeding to the Full Court of the Federal Court or of the Family Court, as the case requires.

(7) Where the Full Court of the Supreme Court—

(a) determines a proceeding to which subsection (4) applies as mentioned in subsection (6);

or

(b) through inadvertence, determines a proceeding to which subsection (4) applies,

nothing in this section invalidates the decision of that Court.

Orders by Supreme Court.

8. (1) Where—

(a) a proceeding (in this subsection referred to as the "relevant proceeding") is pending in—

(i) a court, other than the Supreme Court, of the State;

or

(ii) a tribunal established by or under an Act;

and

(b) it appears to the Supreme Court that—

(i) the relevant proceeding arises out of, or is related to, another proceeding pending in the Federal Court, the Family Court or the Supreme Court of another State or of a Territory and, if an order is made under this subsection in relation to the relevant proceeding, there would be grounds on which that other proceeding could be transferred to the Supreme Court;

or

(ii) an order should be made under this subsection in relation to the relevant proceeding so that consideration can be given to whether the relevant proceeding should be transferred to another court,

the Supreme Court may, on the application of a party to the relevant proceeding or of its own motion, make an order removing the relevant proceeding to the Supreme Court.

(2) Where an order is made under subsection (1) in relation to a proceeding, this Act applies in relation to the proceeding as if it were a proceeding pending in the Supreme Court.

(3) Where a proceeding is removed to the Supreme Court in accordance with an order made under subsection (1), the Supreme Court may, if the Supreme Court considers it appropriate to do so, remit the proceeding to the court or tribunal from which the proceeding was removed.

Exercise of jurisdiction pursuant to cross-vesting laws.

9. The Supreme Court—

(a) may exercise jurisdiction (whether original or appellate) conferred on that court by a provision of this Act or of a law of the Commonwealth or a State relating to cross-vesting of jurisdiction;

and

(b) may hear and determine a proceeding transferred to that court under such a provision.

Transfer of matters arising under Division 1 or 1A of Part V of the *Trade Practices Act* (Cth.).

10. Where—

(a) a proceeding is pending in the Federal Court, the Family Court, the Supreme Court or the Supreme Court of another State or of a Territory;

(b) a matter for determination in the proceeding is a matter arising under Division 1 or 1A of Part V of the *Trade Practices Act 1974* of the Commonwealth;

(c) no matter for determination in the proceeding is a special federal matter;

(d) the proceeding is not a proceeding by way of an appeal from a judgment of a court;

and

(e) a court of the State, other than the Supreme Court, has jurisdiction with respect to all of the matters for determination in the proceeding,

the court referred to in paragraph *(a)* may, on the application of a party to the proceeding or of its own motion, transfer the proceeding to the court referred to in paragraph *(e)*.

Conduct of proceedings.

11. (1) Where it appears to a court that the court will, or will be likely to, in determining a matter for determination in a proceeding, be exercising jurisdiction conferred by this Act or by a law of the Commonwealth or a State relating to cross-vesting of jurisdiction—

(a) subject to paragraphs *(b)* and *(c)*, the court shall, in determining that matter, apply the law in force in the State or Territory in which the court is sitting (including choice of law rules);

(b) subject to paragraph *(c)*, if that matter is a right of action arising under a written law of another State or Territory, the court shall, in determining that matter, apply the written and unwritten law of that other State or Territory;

and

(c) the rules of evidence and procedure to be applied in dealing with that matter shall be such as the court considers appropriate in the circumstances, being rules that are applied in a superior court in Australia or in an external Territory.

(2) The reference in subsection (1) *(a)* to the State or Territory in which the court is sitting is, in relation to the Federal Court or the Family Court, a reference to the State or Territory in which any matter for determination in the proceeding was first commenced in or transferred to that court.

(3) Where a proceeding is transferred or removed to a court (in this subsection referred to as the "transferee court") from another court (in this subsection referred to as the "transferor court"), the transferee court shall deal with the proceeding as if, subject to any order of the transferee court, the steps that had been taken for the purposes of the proceeding in the transferor court (including the making of an order), or similar steps, had been taken in the transferee court.

Orders as to costs.

12. Where a proceeding is transferred or removed to a court, that court may make an order as to costs that relate to the conduct of the proceeding before the transfer or removal if those costs have not already been dealt with by another court.

Limitation on appeals.

13. An appeal does not lie from a decision of a court—

(a) in relation to the transfer or removal of a proceeding under this Act;

or

(b) as to which rules of evidence and procedure are to be applied pursuant to section 11 (1).

Enforcement and effect of judgments.

14. (1) A judgment of the Federal Court or the Family Court that is given, in whole or in part, in the exercise of jurisdiction conferred by a law or laws relating to cross-vesting of jurisdiction is enforceable in the State as if the judgment had been given entirely in the exercise of the jurisdiction of that court apart from any such law.

(2) A judgment of the Supreme Court that is given, in whole or in part, in the exercise of jurisdiction conferred by a law or laws relating to cross-vesting of jurisdiction is enforceable in the State as if the judgment had been given entirely in the exercise of the jurisdiction of the Supreme Court apart from any such law.

(3) Where—

(a) a provision of a law of the State (not being a law relating to the enforcement of judgments) refers to a thing done by the Supreme Court;

and

(b) that thing is done by another court in exercise of jurisdiction conferred by this Act,

the reference in that provision to the Supreme Court shall be read as a reference to that other court.

Suspension or cessation of operation of Act.

15. (1) Subject to subsection (2), the Governor may by proclamation—

(a) suspend the operation of this Act from a day (being a day not earlier than three years after the commencement of this Act) specified in the proclamation;

and

(b) revoke any such suspension.

(2) The Governor shall not make a proclamation suspending the operation of this Act unless satisfied that the Attorney-General has given notice of intention to seek the making of such a proclamation to the Attorney-General of the Commonwealth and to the Attorneys-General of each other State (other than a State in relation to which a proclamation under subsection (4) has been made) not less than 6 months before the suspension is to take effect.

(3) If the Governor is satisfied that the Acts of the Commonwealth and other States relating to cross-vesting of jurisdiction are not effective to invest the Supreme Court of South Australia with, or confer on that Court, jurisdiction of the Federal Court, the Family Court or the Supreme Court of another State or of a Territory, the Governor may, by proclamation, fix a day on which this Act will expire.

(4) If the Governor is satisfied that an Act of the Commonwealth or another State relating to cross-vesting of jurisdiction has been repealed, rendered inoperative, suspended or altered in a substantial manner, the Governor may, by proclamation, modify the operation of this Act so that it does not apply in relation to the Commonwealth or a Territory or in relation to that State.

(5) If—

(a) the Governor has made a proclamation under subsection (4) in relation to the Commonwealth or a Territory or a State;

and

(b) the Governor is satisfied that there is in force an Act of the Commonwealth or that State relating to cross-vesting of jurisdiction, being an Act in terms substantially corresponding to the terms of this Act,

the Governor may, by proclamation, revoke the proclamation under subsection (4).

(6) The Governor shall not make a proclamation under this section except on resolution of both Houses of Parliament.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

[1] In the *Jurisdiction of Courts (Cross-vesting) Act 1987* of the Commonwealth "special federal matter" means—

(a) a matter arising under Part IV (other than section 45D or 45E)of the *Trade Practices Act 1974*;

(b) a matter involving the determination of questions of law on appeal from a decision of, or of questions of law referred or stated by, a tribunal or other body established by an Act or a person holding office under an Act, not being a matter for determination in an appeal or a reference or case stated to the Supreme Court of a State or Territory under a law of the Commonwealth that specifically provides for such an appeal, reference or case stated to such a court;

(c) a matter arising under the *Administrative Decisions (Judicial Review) Act 1977*;

(d) a matter arising under section 32 of the *National Crime Authority Act 1984*; or

(e) a matter that is within the original jurisdiction of the Federal Court by virtue of section 39B of the *Judiciary Act 1903*,

being a matter in respect of which the Supreme Court of a State or Territory would not, apart from this Act, have jurisdiction.

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 68 of 1987

An Act to amend the Summary Offences Act, 1953.

[*Assented to 29 October 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Summary Offences Act Amendment Act, 1987".

(2) The Summary Offences Act, 1953, is in this Act referred to as "the principal Act".

Repeal of s. 73 and substitution of new section.

2. Section 73 of the principal Act is repealed and the following section is substituted:

Power of police to remove disorderly persons from places of public entertainment.

73. (1) A member of the police force may enter a place of public entertainment and—

(a) order any person who is behaving in a disorderly or offensive manner to leave;

or

(b) use reasonable force to remove any person who is behaving in such a manner.

(2) A person—

(a) who remains in a place of public entertainment after having been ordered to leave pursuant to this section;

or

(b) who re-enters, or attempts to re-enter, a place of public entertainment within 24 hours of having left or having been removed from such a place pursuant to this section,

is guilty of an offence.

Penalty: $2 000 or imprisonment for 6 months.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 69 of 1987

An Act to amend the Real Property Act, 1886.

[*Assented to 29 October 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Real Property Act Amendment Act (No. 2), 1987".

(2) The Real Property Act, 1886, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Insertion of new s. 119a.

3. The following section is inserted after section 119 of the principal Act:

Standard terms and conditions of lease.

119a. (1) A person may deposit with the Registrar-General for filing in the Lands Titles Registration Office a document containing terms and conditions for incorporation as standard terms and conditions in leases under this section.

(2) A lease may provide that standard terms and conditions, as contained in a document deposited with the Registrar-General under subsection (1)—

(a) are incorporated in the lease;

or

(b) are incorporated in the lease subject to exclusions or amendments specified in the lease,

and, in that event, the lease has effect as if those terms and conditions were (subject to any exclusions or amendment specified in the lease) contained in the lease.

(3) Where a lease makes provision for incorporation of standard terms and conditions (either with or without exclusions or amendments), the lessor must, before execution of the lease by the lessee, provide the lessee with a copy of the standard terms and conditions.

Penalty: $500.

(4) Non-compliance with subsection (3) does not affect the validity or effect of a lease.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 70 of 1987

An Act to amend the Racing Act, 1976.

[*Assented to 5 November 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Racing Act Amendment Act, 1987".

(2) The Racing Act, 1976, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 68—Deduction of percentage from totalizator money.

3. Section 68 of the principal Act is amended by striking out from paragraph *(c)* "18 per centum" and substituting "20 per cent".

Amendment of s. 69—Application of amount deducted under s. 68.

4. Section 69 of the principal Act is amended by striking out paragraph *(b)* of subsection (1) and substituting the following paragraph:

(b) secondly, in payment of an amount equal to one per cent of the amount of totalizator bets made with the Board on doubles and an amount equal to 1.4 per cent of the amount of totalizator bets made with the Board on multiples to the Racecourses Development Board;.

Amendment of s. 70—Application of percentage deductions.

5. Section 70 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) Subject to subsection (4), an authorized racing club must, out of the amount deducted by it pursuant to section 68, from totalizator bets made with it on each day on which it conducts totalizator betting, pay—

(a) to the Treasurer for the General Revenue of the State, where the sum of the amounts of those bets made with it on that day—

(i) does not exceed $30 000—an amount equal to one per cent of that sum;

(ii) exceeds $30 000 but does not exceed $60 000—$300 plus 2 per cent of the amount in excess of $30 000;

(iii) exceeds $60 000 but does not exceed $120 000—$900 plus 3 per cent of the amount in excess of $60 000;

or

(iv) exceeds $120 000—$2 700 plus 5.25 per cent of the amount in excess of $120 000;

and

(b) to the Racecourses Development Board—

(i) an amount equal to one per cent of the amount of those bets made on doubles;

(ii) an amount equal to 1.4 per cent of the amount of those bets made on multiples,

and may retain the balance for the purposes of the club.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 71 of 1987

An Act to amend the Marketing of Eggs Act, 1941.

[*Assented to 5 November 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Marketing of Eggs Act Amendment Act, 1987".

(2) The Marketing of Eggs Act, 1941, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 2—Interpretation.

3. Section 2 of the principal Act is amended—

(a) by striking out from subsection (1) the definitions of "declared organization", "eligible candidate", "levy day", "Minister", "the appointed day" and "the Commonwealth Acts";

(b) by striking out from subsection (1) the definition of "hen" and substituting the following definition:

"hen" means a female domesticated fowl of the genus *gallus domesticus* that is not less than 22 weeks old:;

(c) by striking out from the definition of "producer" in subsection (1) "twenty" and substituting "fifty";

and

(d) by striking out subsection (2).

Repeal of s. 2a.

4. Section 2a of the principal Act is repealed.

Repeal of s. 3.

5. Section 3 of the principal Act is repealed.

Repeal of ss. 4 to 18 and substitution of new sections.

6. Sections 4 to 18 of the principal Act are repealed and the following sections are substituted:

The South Australian Egg Board.

4. (1) The South Australian Egg Board is established.

(2) The board is a body corporate.

(3) Where an apparently genuine document purports to bear the common seal of the board, it will be presumed in legal proceedings, in the absence of proof to the contrary, that the document has been duly executed by the board.

Members of the board.

5. (1) The board consists of five members appointed by the Minister and of these—

(a) two must be appointed on the nomination of the United Farmers and Stockowners of S.A. Incorporated;

(b) one must be a person with experience in financial management;

and

(c) one must be appointed to represent the interests of consumers of eggs.

(2) A member of the board will be appointed to preside at its meetings.

(3) A member will be appointed for a term not exceeding four years on such conditions as the Minister determines and, at the expiration of that term, will be eligible for reappointment.

(4) The Minister may appoint a person to be a deputy of a member and if the member is, for any reason, absent or unable to act, the deputy may act in the member's place.

(5) The requirement of nomination made by this section in relation to the appointment of a member extends to the appointment of the member's deputy.

(6) The Minister may remove a member from office for—

(a) a breach of, or non-compliance with, the conditions of the member's appointment;

(b) mental or physical incapacity to carry out official duties satisfactorily;

(c) neglect of duty;

or

(d) dishonourable conduct.

(7) The office of a member becomes vacant if the member—

(a) dies;

(b) completes a term of office and is not reappointed;

(c) attains the age of 65;

(d) resigns by written notice to the Minister;

or

(e) is removed from office by the Minister pursuant to subsection (5).

(8) Upon the office of a member becoming vacant, a person must be appointed in accordance with this Act to the vacant office.

Procedures at meetings of the board.

6. (1) Three members of the board (of whom at least one is a member appointed on the nomination of the United Farmers and Stockowners of S.A. Incorporated) constitute a quorum of the board.

(2) Meetings of the board will be chaired by the member appointed to preside or, in the absence of that member, by a member chosen by those present at the meeting.

(3) A question arising before the board will be determined in accordance with the opinion of a majority of the members present or, where they are equally divided in opinion, in accordance with the opinion of the person presiding at the meeting.

(4) The board must cause accurate minutes to be kept of the business conducted at its meetings.

(5) Subject to this Act, the procedure for the calling of meetings of the board and the conduct of business at meetings of the board will be determined by the board.

Validity of acts of Board and immunity of members.

7. (1) No act or proceeding of the board is invalid by reason only of a vacany in the office, or a defect in the appointment, of a member.

(2) No liability attaches to a member for any act or omission by the member, or by the board, in good faith and in the exercise, or purported exercise, of powers or functions or in the discharge, or purported discharge, of duties under this Act.

(3) A liability that would, but for subsection (2), attach to a member of the board attaches instead to the Crown.

Personal interest of member.

8. (1) A member who has a personal interest or a direct or indirect pecuniary interest in a matter under consideration by the board is disqualified from participating in the board's consideration of that matter.

(2) A member who is a producer is not disqualified under subsection (1) by reason of an interest that the producer shares with all other producers.

Remuneration, etc., of members.

9. The board will pay to its members such remuneration, allowances and expenses as are determined by the Minister.

Powers of the board.

10. For the purpose of carrying out its functions, the board may—

(a) acquire, hold, deal with and dispose of real and personal property;

(b) enter into any kind of contract or arrangement;

(c) acquire or incur any other rights or liabilities;

(d) exercise such other powers as are vested in it under this Act or are necessary for, or are incidental to, the efficient discharge of its functions under this or any other Act.

Staff.

11. (1) The board may appoint such staff as is necessary or expedient for the purposes of this Act.

(2) The board may, with the approval of the Minister, make use of the services of employees, or any facilities, of the State.

Accounts and audit.

12. (1) The board must cause proper accounts to be kept of its financial affairs.

(2) The Auditor-General may at any time, and must at least once in each year, audit the accounts of the board.

Report.

13. (1) The board must, on or before the thirtieth day of September in each year, deliver to the Minister a report upon the administration of this Act and the Egg Industry Stabilization Act, 1973, during the period of 12 months that ended on the preceding thirtieth day of June.

(2) The Minister must, within 12 sitting days after delivery of the report, cause a copy of the report to be laid before each House of Parliament.

Report as to efficiency.

14. (1) Every three years the Minister must appoint a suitable person to examine the degree of efficiency with which the board carries out its functions under this Act and the Egg Industry Stabilization Act, 1973.

(2) The person appointed under subsection (1) must deliver a report to the Minister on his or her findings and the Minister must, within 12 sitting days after delivery of the report, cause a copy of the report to be laid before each House of Parliament.

(3) The costs of the examination and the report will be met by the Board from its funds.

Amendment of s. 21a—Ungraded eggs not to be sold in shops.

7. Section 21a of the principal Act is amended by striking out "Penalty: Two hundred dollars".

Amendment of s. 23—Exemptions.

8. Section 23 of the principal Act is amended by striking out subsection (4).

Amendment of s. 34—Regulations.

9. Section 34 of the principal Act is amended by striking out paragraphs *(e)*, *(f)* and *(g)*.

Repeal of schedule.

10. The schedule to the principal Act is repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor

ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

****

No. 72 of 1987

An Act to amend the Land Tax Act, 1936, and the Retirement Villages Act, 1987.

[*Assented to 5 November 1987*]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Land Tax Act Amendment Act, 1987".

(2) The Land Tax Act, 1936, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will be deemed to have come into operation at midnight on 30 June, 1987.

Amendment of s. 4—Interpretation.

3. Section 4 of the principal Act is amended by inserting after the definition of "particular notice" the following definition:

"retirement village" means retirement village as defined in the Retirement Villages Act, 1987:.

Amendment of s. 10a—Exemption of certain residential land from land tax.

4. Section 10a of the principal Act is amended—

(a) by striking out subparagraph (iii) of paragraph *(a)* of subsection (11) and substituting the following subparagraph:

(iii) a person entitled to the benefit of this section pursuant to subsection (12a);;

and

(b) by striking out subsection (12a) and substituting the following subsection:

(12a) The owner of land comprising a retirement village is entitled to the benefit of this section in respect of so much of the land as consists of—

(a) a residential unit occupied, pursuant to a residence contract, by a natural person (alone or with any

other person) as his or her principal place of residence;

(b) the land appurtenant to any such unit;

or

(c) a facility provided pursuant to the retirement village scheme for the exclusive use of the residents (and their guests).

Amendment of s. 12—Scale of land tax.

5. Section 12 of the principal Act is amended by striking out subsection (5) and substituting the following subsection:

(5) Notwithstanding the above provisions, a taxpayer is entitled to the following partial remission of land tax in respect of the financial year commencing on 1 July, 1987:

(a) where the taxable value of the land in respect of which the tax payer is liable to land tax does not exceed $200 000—a remission of 25 per cent of the land tax that would, but for this subsection, be payable;

(b) where the taxable value of the land in respect of which the taxpayer is liable to land tax exceeds $200 000—a remission of $470.

Amendment of Retirement Villages Act, 1987.

Land tax must not be charged to residents.

6. The Retirement Villages Act, 1987, is amended by inserting after section 10 the following section:

10a. (1) Subject to subsection (2), land tax payable in respect of any of the land comprising a retirement village is not recoverable by the taxpayer directly or indirectly from the residents of the village.

(2) Subsection (1) does not prevent a taxpayer from recovering directly from the resident of a unit land tax payable in respect of that unit and its appurtenant land where the unit is not being occupied by the resident as his or her principal place of residence.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor