

SOUTH AUSTRALIA

**POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES
REGULATIONS, 1990**

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**REGULATIONS UNDER THE POLLUTION OF WATERS BY OIL
AND NOXIOUS SUBSTANCES ACT, 1987**

*Pollution of Waters by Oil and Noxious Substances
Regulations, 1990*

being

No. 213 of 1990: *Gaz.* 1 November 1990, p. 1386¹

¹ Came into operation 1 December 1990, being the day on which the Pollution of Waters by Oil and Noxious Substances Act, 1987, came into operation: *Gaz.* 1 November 1990, p. 1338: reg. 2

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PART I

PRELIMINARY

Citation

1. These regulations may be cited as the *Pollution of Waters by Oil and Noxious Substances Regulations, 1990*.

Commencement

2. These regulations will come into operation on the day on which the *Pollution of Waters by Oil and Noxious Substances Act, 1987*, comes into operation.

Interpretation

3. In these regulations—

"the Act" means the *Pollution of Waters by Oil and Noxious Substances Act, 1987*:

"the Department" means the Department of Marine and Harbors:

"the Director" means the Director of Marine and Harbors.

PART II

POLLUTION BY OIL OR NOXIOUS SUBSTANCES

Prescribed officers

4. (1) For the purposes of sections 8(2) and 18(2) of the Act, the Director and each of the following officers of the Department are prescribed officers:

- (a) Director of Marine Safety;
- (b) Harbormaster, Port Adelaide;
- (c) Assistant Harbormaster, Port Adelaide;
- (d) Harbormaster, Port Pirie;
- (e) Assistant Harbormaster, Port Pirie;
- (f) Harbormaster, Whyalla;
- (g) Assistant Harbormaster, Whyalla;
- (h) Harbormaster, Port Lincoln;
- (i) Harbormaster, Thevenard;
- (j) Harbormaster, Wallaroo.

(2) For the purposes of sections 10, 13(3) and (4), 20 and 23(5) and (6) of the Act, the Director is a prescribed officer.

(3) For the purposes of section 18(6), (7), (8) and (9) of the Act, the Director and each of the following officers of the Department of Transport and Communications of the Commonwealth are prescribed officers:

- (a) First Assistant Secretary, Maritime Operations Division;
- (b) Senior Assistant Secretary, Safety Operations Branch;
- (c) Regional Director, New South Wales;
- (d) Regional Director, Victoria;
- (e) Regional Director, Queensland;
- (f) Regional Director, Western Australia;
- (g) Regional Director, South Australia and Northern Territory;
- (h) Regional Director, Tasmania;

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- (i) Marine Surveyor, Darwin;
- (j) Director, Pollution Prevention, Safety Operations Branch;
- (k) Technical Adviser, Marine Pollution, Safety Operations Branch;
- (l) Operations Co-ordinator, Marine Pollution, Safety Operations Branch.

Notification of discharges

5. For the purposes of sections 10(1) and (3) and 20(1) and (3) of the Act, a prescribed incident must be notified by means of a telephone message, an urgent telegram message, a telex message, a radio message or a facsimile message—

- (a) conveyed through the Port Adelaide Signal Station of the Department or the offices of the officers prescribed in regulation 4(1), containing the name and radio call sign (if any) of the ship concerned followed by the name of the person notifying the incident and the position of the ship;

or

- (b) conveyed through the Federal Sea Safety Centre in the Department of Transport and Communications of the Commonwealth and commencing with the code letters POLREP and continuing the name and radio call sign (if any) of the ship concerned.

Time for furnishing discharge report

6. For the purposes of sections 10(6) and (7) and 20(6) and (7) of the Act, a report must be furnished to the Director in relation to a prescribed incident within 24 hours after receipt of a request for a report, or within such further time as the Director may allow.

Discharge reports

7. For the purposes of sections 10(6) and (7) and 20(6) and (7) of the Act, the form set out in the schedule is the prescribed form.

Oil record book

8. (1) An oil tanker to which section 11 of the Act applies must carry an oil record book in the form set out in Part I and the form set out in Part II of Appendix III to Annex I of the 1978 Protocol as in force at the commencement of these regulations.

(2) A ship (other than an oil tanker) to which section 11 of the Act applies must carry an oil record book in the form set out in Part I of Appendix III to Annex I of the 1978 Protocol as in force at the commencement of these regulations.

Matters to be recorded in an oil record book

9. (1) For the purposes of section 11(5) of the Act—

- (a) each of the following operations (being a machinery space operation) is a prescribed operation in relation to a ship (including an oil tanker):
 - (i) the ballasting or cleaning of an oil fuel tank;
 - (ii) a discharge of dirty ballast or cleaning water from an oil fuel tank;

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- (iii) a disposal of oil residues (sludge);
- (iv) a discharge overboard or other disposal of bilge water that has accumulated in any machinery space;

and

(b) each of the following operations (being a cargo or a ballast operation) is a prescribed operation in relation to an oil tanker:

- (i) the loading of oil cargo;
- (ii) an internal transfer of oil cargo during a voyage or in port;
- (iii) the unloading of oil cargo;
- (iv) the ballasting of a cargo tank or a dedicated clean ballast tank;
- (v) the cleaning of a cargo tank (including crude oil washing);
- (vi) a discharge of ballast from a tank other than a segregated ballast tank;
- (vii) a discharge of water from a slop tank;
- (viii) the closing, after an operation referred to in subparagraph (vii), of all applicable valves or similar devices;
- (ix) the closing, after an operation referred to in subparagraph (vii), of valves necessary for the isolation of a dedicated clean ballast tank from cargo and stripping lines;
- (x) a disposal of residues.

(2) For the purposes of section 11(5) of the Act, each of the following occurrences is a prescribed occurrence in relation to a ship (including an oil tanker):

- (a) the discharge into the sea of oil or an oily mixture from the ship for the purpose of—
 - (i) securing the safety of the ship;or
 - (ii) saving life at sea;
- (b) the discharge into the sea of oil or an oily mixture in consequence of damage to the ship or its equipment;
- (c) the discharge into the sea of substances containing oil for the purpose of combating specific pollution incidents;
- (d) the failure of the ship's oil discharge monitoring and control system;

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- (e) the discharge into the sea of oil or an oily mixture, being—
- (i) a discharge for an exceptional purpose other than a purpose referred to in paragraph (a) or (c);
- or
- (ii) an accidental discharge other than a discharge referred to in paragraph (b).

Cargo record book

10. For the purposes of section 21 of the Act, the prescribed form of cargo record is the form set out in Appendix IV to Annex II of the 1978 Protocol as in force at the commencement of these regulations.

Matters to be recorded in a cargo record book

11. (1) For the purposes of section 21(5) of the Act, each of the following operations is a prescribed operation in relation to a ship:

- (a) the loading of cargo;
- (b) an internal transfer of cargo during a voyage or in port;
- (c) the unloading of cargo;
- (d) the ballasting of a cargo tank;
- (e) the cleaning of a cargo tank;
- (f) a discharge of ballast from a cargo tank;
- (g) a disposal of residues to a reception facility;
- (h) the discharge of a noxious liquid substance, or of a mixture containing such a substance, into the sea in accordance with Regulation 5 of Annex II to the Convention;
- (i) the removal by ventilation procedures of cargo residues from a tank in accordance with Regulation 5 of Annex II to the Convention.

(2) For the purposes of section 21(5) of the Act, each of the following occurrences is a prescribed occurrence in relation to a ship:

- (a) the discharge into the sea of a noxious liquid substance, or of a mixture containing such a substance, for the purpose of—
 - (i) securing the safety of the ship;
- or
- (ii) saving life at sea;

7.

- (b) the discharge into the sea of a noxious liquid substance, or of a mixture containing such a substance, in consequence of damage to the ship or its equipment;
- (c) the discharge into the sea of a noxious liquid substance, or of a mixture containing such a substance, being—
 - (i) a discharge for an exceptional purpose other than a purpose referred to in paragraph (a);or
 - (ii) an accidental discharge other than a discharge referred to in paragraph (b).

Regulation 8 of Annex II to have the force of law

12. (1) Pursuant to section 24 of the Act, the provisions of Regulation 8 of Annex II to the Convention, other than paragraph (1) of that Regulation, apply to, and in relation to, the washing of a tank of a ship from which a noxious liquid substance has been unloaded.

(2) A surveyor within the meaning of the *Marine Act, 1936*, is, by virtue of this subregulation, a surveyor authorized for the purpose of implementing Regulation 8 of Annex II to the Convention.

(3) If a tank of a ship from which a noxious liquid substance has been unloaded is not washed in accordance with whichever of the provisions of Regulation 8 of Annex II to the Convention is applicable to the tank, having regard to—

- (a) whether the substance unloaded from the tank is a Category A, Category B, Category C or Category D substance;

and

- (b) whether the tank has been unloaded in a Special Area or an area other than a Special Area,

the master of the ship is guilty of an offence.

Penalty: \$2 000.

(4) In the application of Regulation 8 of Annex II to the Convention to, or in relation to, the washing of a tank of a ship—

- (a) a reference to the receiving Party will be taken as a reference to Australia or to the State;

- (b) a reference to the Administration will be taken as a reference to the person for the time being occupying, or performing the duties of, the office of Chief Marine Surveyor in the Department of Transport and Communications of the Commonwealth, or Senior Surveyor of that Department;

and

8.

(c) a reference to the surveyor (however described) will be taken as a reference to a surveyor authorized under subregulation (2).

(5) A surveyor referred to in subregulation (2) must, in the exercise of any power or the performance of any function for the purpose of implementing Regulation 8 of Annex II to the Convention, comply with any control procedures developed by the Organisation.

(6) An exemption referred to in paragraph (2)(b), (5)(b), (6)(b) or (7)(c) of Regulation 8 of Annex II to the Convention may only be granted to a ship engaged in voyages to ports or terminals under the jurisdiction of States, other than Australia, that are parties to the Convention and, on such an exemption being granted to a ship, the appropriate entry made in the ship's cargo record book must be endorsed by a surveyor.

Discharge reports occurring other than from ships

13. (1) For the purposes of section 27(2) of the Act, a report must be furnished to the Minister in relation to the occurrence within 24 hours after receipt of a request for a report, or within such further time as the Minister may allow.

(2) For the purposes of section 27(2) of the Act the form set out in the schedule is the prescribed form.

PART III

MISCELLANEOUS

Minister may make orders

14. The Minister may, by instrument in writing, make orders for and in relation to—

- (a) giving effect to Annex I to the Convention, other than provisions of that Annex to which effect is given by a provision of the Act or these regulations;
- (b) giving effect to Annex II to the Convention, other than provisions of that Annex to which effect is given by a provision of the Act or these regulations;
- (c) giving effect to Article 8 of, and Protocol I to, the Convention, other than provisions of that Article or Protocol to which effect is given by a provision of the Act or these regulations;

and

- (d) the fixing of fees to be paid in respect of any matters under any such orders.

Fee for deposit of oil record book or cargo record book

15. A fee of \$40.00 is payable by the owner of a ship for—

- (a) the deposit of an oil record book of the ship in accordance with section 13(4) of the Act;

or

- (b) the deposit of a cargo record book of the ship in accordance with section 23(6) of the Act.

Exemptions

16. (1) For the purposes of section 41(1)(h) of the Act, each of the following classes of ships is exempt from the provisions of the Act and these regulations:

- (a) ships belonging to an arm of the Defence Forces of Australia or to the naval, military or air forces of another country;
- (b) ships (other than a vessel belonging to an arm of the Defence Forces of Australia or to the naval, military or air forces of another country) that are owned or operated by a State other than Australia and used, for the time being, only on government non-commercial service.

(2) In subregulation (1)(b)—

"State" has the same meaning as in the Convention.

SCHEDULE

DISCHARGE REPORT

(Details below are to be provided only if applicable or requested
by the Minister or Director)

1. Name, radio call-sign, position and flag of ship or position of discharge and place on land/purpose—built pipeline/apparatus.

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2. Frequency or frequencies or radio channel or channels guarded.

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3. Name, address, telex and telephone number of principal place of business of owner.

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4. Name, address, telex and telephone number of principal place of business of—

(a) the charterer, manager or operator of the ship;

or

(b) the agent in Australia of the charterer, manager or operator of the ship.

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5. Type of ship (e.g. oil tanker, chemical tanker, dry cargo ship) and gross tonnage.

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6. Date and time (state whether UTC, CST or Daylight Saving CST) of the occurrence of the incident.

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7. Brief description of the incident, including any damage sustained.

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8. The position, course and speed of the ship at the time of the incident.

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9. The technical name (or, where the technical name is not known, the trade name), UN number, Classification in the International Maritime Dangerous Goods (IMDG) Code (where applicable), name of the manufacturer, quantity and concentration, of the harmful substance discharged, or likely to be discharged, into the sea.

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10. Type and quantity of cargo carried, including details of harmful substances carried.

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11. Condition of the ship.

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12. Ability to transfer cargo and ballast.

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13. Cause of the discharge.

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14. Whether the discharge is continuing and the approximate quantity discharged.

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15. Weather, sea and current conditions in the vicinity of the discharge.

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16. Estimate of the discharge movement and the surface area of the discharge.

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17. Actions being taken with regard to the discharge and the movement of any ship.

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18. Assistance which has been requested from or which has been provided by others.

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