



ANNO TRICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 35 of 1982

An Act to amend the Prevention of Pollution of Waters by Oil Act, 1961-1979.

[Assented to 15 April 1982]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Prevention of Pollution of Waters by Oil Act Amendment Act, 1982".

(2) The Prevention of Pollution of Waters by Oil Act, 1961-1979, is in this Act referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Prevention of Pollution of Waters by Oil Act, 1961-1982".

Amendment of
s. 3—
Interpretation.

2. Section 3 of the principal Act is amended—

(a) by inserting in subsection (1) after the definition of "the Convention" the following definition:

"Director-General" means the person for the time being holding or acting in the office of Director-General of Marine and Harbors;;

and

(b) by inserting in subsection (1) after the definition of "discharge" the following definition:

"harbormaster" means an officer charged with the administration of Part III of the Harbors Act, 1936-1981, at a port in this State and includes an assistant harbormaster.;

Amendment of
s. 5—
Discharge of
oil into
waters.

3. Section 5 of the principal Act is amended by striking out from paragraph (a) of subsection (2) the passage " , the agent".

Amendment of
s. 7—
Removal and
prevention of
oil pollution.

4. Section 7 of the principal Act is amended—

(a) by striking out paragraph (a) and substituting the following paragraph:

(a) may take or cause to be taken such action as he thinks fit—

(i) to prevent or limit the discharge;

- (ii) to disperse or contain substances that have been discharged;
- (iii) to remove substances that have been discharged from waters or land affected by the discharge;
- or
- (iv) to protect, or limit damage to, property that has been, or is likely to be, affected by the discharge;;

and

(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) No civil liability shall attach to the Minister for any act or failure to act under this section.

5. Section 7a of the principal Act is amended by striking out from subsection (5) the passage "to whom notice was given under subsection (1) of this section" and substituting the passage "liable under section 5 of this Act for the discharge, or who would have been so liable had the discharge occurred".

Amendment of
s. 7a—
Minister may
require
certain
action to
be taken.

6. Section 7c of the principal Act is amended—

(a) by striking out the passage "In any proceedings" and substituting the passage "Subject to this section, in any proceedings";

and

(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) In respect of a discharge from a ship, the defence provided by paragraph (d) of subsection (1) is not available—

(a) to an agent in respect of an act or omission of the owner, the 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, the 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.

Amendment of
s. 7c—
Defences.

7. Section 7d of the principal Act is amended—

(a) by striking out from subsection (1) the passage "A person" and substituting the passage "Subject to this section, a person";

and

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

(1a) In respect of a discharge from a ship, the exemption from liability provided by paragraph (c) of subsection (1) is not available—

(a) to an agent, in respect of an act or omission of the owner, the master, or a member of the crew of the ship;

Amendment of
s. 7d—
Limitation of
liability to
Minister for
costs and
expenses.

(b) to the owner of the ship in respect of an act or omission of the agent, the 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.

Amendment of
s. 8—
Equipment in
ships to
prevent oil
pollution.

8. Section 8 of the principal Act is amended by striking out from subsection (4) the passage “, the agent”.

Amendment of
s. 10—
Reporting and
investigating
discharges.

9. Section 10 of the principal Act is amended—

(a) by inserting in subsection (1) after the word “Minister” the passage “, the Director-General or the harbormaster of the nearest port”;

(b) by striking out from paragraph (d) of subsection (2) the passage “the person by whom the records are to be kept” and substituting the passage “the master”;

and

(c) by inserting in paragraph (a) of subsection (4) after the word “take” the passage “or require a person to take”.

Amendment of
s. 12—
Restrictions
on transfer
of oil at
night.

10. Section 12 of the principal Act is amended by striking out from subsection (3) the passage “, the agent”.

Amendment of
s. 14—
Inspection
and report.

11. Section 14 of the principal Act is amended by inserting after the passage “by whom the records are to be kept” in subsection (1) the passage “or, in the case of a ship, the master of the ship”.

Amendment of
s. 16—
Evidence.

12. Section 16 of the principal Act is amended by striking out paragraph (c) and substituting the following paragraph:

(c) an allegation in a complaint that information was not furnished as required by section 10 (1) or 10 (1a) shall, in the absence of proof to the contrary, be accepted as proved;

Amendment of
s. 17—
Proceedings.

13. Section 17 of the principal Act is amended by striking out from subsection (1) the passage “Director of Marine and Harbors” and substituting the passage “Director-General”.

Insertion of
new s. 17a.

14. The following section is inserted after section 17 of the principal Act:

Service of
process on
agent.

17a. Any process issued against the owner or master of a ship in respect of an offence against this Act shall be regarded as having been duly served if served upon the agent of the ship.

15. Section 18 of the principal Act is amended by inserting in subparagraph (iv) of paragraph (a) after the word "section" the passage "7 or".

Amendment of
s. 18—
Evidence of
administrative
acts.

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

W. R. CROCKER, Governor's Deputy