

**PREVENTION OF OIL POLLUTION OF NAVIGABLE
WATERS (AMENDMENT) ACT.**

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 63, 1969.

An Act to make provision with respect to the liability of certain persons for the discharge of oil into navigable waters during operations involving the transfer of oil; for this and other purposes to amend the Prevention of Oil Pollution of Navigable Waters Act, 1960; and for purposes connected therewith. [Assented to, 6th November, 1969.]

BE

Prevention of Oil Pollution of Navigable Waters (Amendment).

No. 63, 1969 **BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. **1.** This Act may be cited as the "Prevention of Oil Pollution of Navigable Waters (Amendment) Act, 1969".

Amendment of Act No. 48, 1960. **2.** The Prevention of Oil Pollution of Navigable Waters Act, 1960, is amended—

New sec. 6A. (a) by inserting next after section six the following new section :—

Discharge of oil into waters in transfer operation.

6A. (1) In this section, "transfer operation" means any operation involved in the preparation for, or in the commencement, carrying on or termination of, a transfer of oil or of any mixture containing oil from or to any ship or any place on land.

(2) Where any discharge of oil or of any mixture containing oil into any waters within the jurisdiction occurs as referred to in section six of this Act, and the discharge occurred by reason of the carrying out of, or the failure to carry out, an act in a transfer operation,—

(a) if the discharge is from a ship—on another ship or at a place on land or in connection with apparatus used in the transfer operation, both the owner and master of that other ship or the occupier of that place or the person in charge of such apparatus, as the case may be, or

(b) if the discharge is from a place on land—
at another place on land or on a ship or in connection with such apparatus, the occupier of that other place or both the
owner

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owner and master of the ship or the person in charge of such apparatus, as the case may be, or

- (c) if the discharge is from such apparatus—
on a ship or at a place on land, both the owner and master of the ship or the occupier of that place, as the case may be,

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two thousand dollars.

(3) Nothing in this section affects in any way the operation of section six of this Act, and proceedings under that section or under this section or under both those sections may be taken in respect of any one discharge of oil or a mixture containing oil.

- (b) by inserting at the end of section seven the following new subsection :—

(3) Where a person is charged with an offence against section 6A of this Act it shall be a defence to prove that the discharge of oil or mixture containing oil was not caused knowingly, wilfully or negligently.

- (c) by inserting next after subsection one of section eight the following new subsection :—

(1A) Notwithstanding anything in subsection one of this section, where a person is convicted of an offence arising under section 6A of this Act in respect of the discharge referred to in subsection one of this section, the Board may, if it so decides, recover such costs and expenses from that person in lieu of recovering them from the person from whom it would otherwise have recovered them under subsection one of this section.

(d)

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Sec. 9.

(Equipment
in ships to
prevent oil
pollution.)

- (d) (i) by inserting at the end of subsection one of section nine the following words :—

The requirements so prescribed may include requirements as to the maintenance, operation or management of the prescribed equipment or of the ship.

- (ii) by inserting next after subsection two of the same section the following new subsection :—

(2A) The regulations made pursuant to this section may prohibit or regulate the carriage, by any ship to which the regulations apply, of water, and of any other substance specified in the regulations, in any tank which has contained oil unless the tank has first been thoroughly cleansed.

Sec. 10.

(Keeping
of oil
records.)

- (e) (i) by inserting in paragraph (b) of subsection four of section ten after the word "period" the words "and in a prescribed place";

- (ii) by inserting at the end of the same section the following new subsections :—

(6) Every matter required to be recorded by the regulations in respect of an occurrence shall be recorded without delay upon the happening of the occurrence.

(7) If any records are not kept or caused to be kept, or retained or transmitted in accordance with the regulations, then—

(a) in the case of records referred to in subsection two of this section, the owner of the ship concerned; or

(b) in the case of records referred to in subsection three of this section, the occupier of the place on land concerned,

shall

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shall be guilty of an offence against this Act No. 63, 1969
and shall be liable to a penalty not exceeding
one thousand dollars.

- (f) (i) by omitting from subsection four of section Sec. 12.
twelve the word "require" and by inserting in (Oil
lieu thereof the word "give"; reception
facilities.)
- (ii) by inserting in the same subsection after the
word "residues" where firstly occurring the
words "a notice in writing requiring him";
- (iii) by inserting at the end of the same section the
following new subsections :—

(5) A notice under subsection four of this
section—

- (a) shall, in so far as it relates to the provi-
sion of facilities as referred to in
paragraph (a) of that subsection,
specify a time within which the require-
ments thereof are to be complied with;
- (b) shall be signed by the Secretary or
Acting Secretary to the Board; and
- (c) may be revoked or varied as the Board
sees fit.

(6) An owner or occupier referred to in
subsection four of this section to whom a
notice under that subsection has been given
and who fails to comply with the requirements
of the notice shall be guilty of an offence
against this Act and shall be liable to a
penalty not exceeding one thousand dollars.

(7) A notice under subsection four of this
section may be sufficiently served by delivering
it to the person being or appearing to be in
charge of the oil terminal, oil depot, oil
installation or establishment to the owner or
occupier

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occupier of which the notice may be given under that subsection, as well as in a manner provided by section 30A of the Maritime Services Act, 1935.

Sec. 17.
(Admissible
evidence.)

(g) by inserting at the end of section seventeen the following new paragraph :—

(d) any document purporting to be a copy of a notice under subsection four of section twelve of this Act and certified by the Secretary or Acting Secretary to the Board to be a true copy of the notice shall be prima facie proof of the notice and of its terms.