

No. , 1926.

A BILL

To make provision against the discharge or escape of oil into navigable waters ; to amend the Justices Act, 1902, and certain other Acts ; and for purposes connected therewith.

BE it enacted by the King'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 :—

1. (1) This Act may be cited as the "Oil in Navigable Waters Act, 1926." Short title.

(2) This Act shall come into operation on the first day of January, one thousand nine hundred and twenty-seven. Commence-ment.

Saving.

12 & 13 Geo.
V, Ch. 39,
s. 9 (2).

Interpre-
tation and
application.

(3) The provisions of this Act shall be in addition to and not in derogation of or in substitution for any provisions for the improvement, management, regulation, or maintenance of any waters to which this Act applies contained in any Act for the time being in force or in any regulation or by-law made or to be made under any such Act.

2. (1) In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Barge” includes lighter or like vessel.

“Harbour” means any harbour whether natural or artificial, and includes any port, dock, estuary or arm of the sea, any river or canal, and any waters in which vessels can obtain shelter or ship or unship goods or passengers.

“Harbour authority” includes any person entrusted with the duty or invested with the power of constructing, improving, managing, regulating, or maintaining any harbour; and, in regard to waters other than a harbour, means the Superintendent of Navigation.

“Harbour master” includes assistant harbour master; and, in any place where there is no appointed harbour master the pilot or officer-in-charge stationed there, and also includes any person appointed by a harbour authority for the purpose of enforcing the provisions of this Act.

“Master” means the person having lawfully or de facto the command, charge or management of the vessel for the time being.

“Oil” means oil of any description and includes spirit produced from oil, oil mixed with water, fuel oil, oil sludge, and oil refuse.

“Transfer” when used in relation to oil means transfer in bulk.

“Vessel” includes any ship or boat or any other description of vessel used in navigation.

(2) This Act applies to the territorial waters of New South Wales, that is the waters within one nautical league of the coast, and also to the waters of any harbour as defined by this Act lying within New South Wales.

3.

3. (1) If any oil is discharged, or allowed to escape, whether directly or indirectly, into any waters to which this Act applies from any vessel or from any place on land or from any apparatus used for the purpose of transferring oil from or to any vessel to or from any other vessel or to or from any place, the owner or master of the vessel, from which the oil is discharged or allowed to escape, the occupier of the land, or the person having charge of the apparatus, as the case may be, shall be guilty of an offence and shall, in respect of each such offence, be liable on summary conviction to a penalty not exceeding *one hundred* pounds :

Penalty for discharge of oil into navigable waters. 12 & 13 Geo. V, Ch. 39, s. 1 (1).

Provided that it shall be a good defence to proceedings for an offence under this section to prove—

- (a) if the proceedings are against the owner or master of a vessel that the escape of the oil was due to, or that it was necessary to discharge the oil by reason of, the vessel being in collision or the happening to the vessel of some damage or accident, and also, if the proceedings are in respect of the escape of oil, that all reasonable means were taken by the master to prevent the escape ; and
- (b) if the proceedings are against any other person and are in respect of an escape of oil, that all reasonable means were taken by that person to prevent the escape.

(2) It shall be lawful for a harbour authority to appoint a place within its jurisdiction at which the ballast water of vessels in which a cargo of oil has been carried may be discharged, and where a place is so appointed any such ballast water may, notwithstanding anything in this section, be discharged at such place, but only at such times and subject to such conditions as the harbour authority may from time to time determine.

4. (1) It shall not be lawful during the hours between sunset and sunrise to transfer any oil to or from any vessel lying in any harbour unless notice be given to and permission in writing obtained from the harbour master.

Prohibition of transfer of oil between sunset and sunrise.

12 & 13 Geo.
V, Ch. 39,
s. 2 (1).
Ibid. . . (2)

(2) In the case of such an operation to be performed at a place where such operations are frequently and regularly carried on, the notice may be a general notice to the effect that such operations will, during such period not exceeding twelve months from the date of notice as may be specified thereunder, be carried on between sunset and sunrise, and the permission may also be general and given subject to such conditions and stipulations as the harbour authority thinks fit.

(3) If any oil is transferred to or from any vessel in contravention to the provisions of this section, or if any condition or stipulation of a written permission be broken or destroyed, the master of the vessel and, if the oil is transferred from or to premises on land, the occupier of the premises shall, in respect of each offence, be liable on summary conviction to a penalty not exceeding *twenty* pounds.

Particulars to
be furnished
with respect
to the transfer
of oil.

5. (1) Particulars of each operation in connection with the transfer of oil to and from a vessel shall be furnished to the harbour authority and in the form set forth in the Schedule hereto within forty-eight hours of its completion.

(2) The particulars required to be furnished under this section shall, in the case of a barge, be furnished, so far as relates to the transfer of oil to the barge, by the person supplying the oil, and, so far as relates to the transfer of oil from the barge, by the person to whom the oil is delivered, and shall, in every other case, be furnished by the master of the vessel.

(3) If any person required to furnish particulars under this section fails to do so he shall, in respect of each offence, be liable on summary conviction to a penalty not exceeding *fifty* pounds, and if any such person furnishes any particulars which are to his knowledge false, or in any material particular misleading, or wilfully fails to furnish such particulars, he shall, in respect of each offence, be liable on summary conviction to a penalty not exceeding *one hundred* pounds.

6.

6. (1) Where oil has been contained in any tanks or other spaces in a vessel, any liquid discharged or allowed to escape from these tanks or spaces shall, unless it is proved that the tanks or spaces have been cleaned of oil, or that the liquid has been freed from oil by means of a separating apparatus, be deemed to be oil within the meaning of this Act.

Liquid contained in spaces used for carriage of oil deemed to be oil for purposes of Act.
12 & 13 Geo. V. Ch. 39, s. 4 (1).

(2) In the case of proceedings against any person other than the master of a vessel, evidence of the matters aforesaid may be given by means of a certificate signed by the master, and if the master of a vessel gives any certificate under this section which is to his knowledge false, or in any material particular misleading, he shall on summary conviction be liable in respect of each offence to a penalty not exceeding *fifty* pounds.

Ibid. s. 4 (2).

7. (1) The harbour authority may, if it thinks fit, appoint any officer of the authority or any other person to inspect any vessel being in any waters to which this Act applies, and any officer or person so appointed or the harbour master of the waters in which the vessel is may at all reasonable times enter upon the vessel and examine the measures adopted to prevent the escape of oil.

Power to inspect vessels and premises.
Ibid. s. 6 (1).

(2) If there is reason to suspect that oil is escaping or has escaped, whether directly or indirectly, into waters to which this Act applies from premises adjacent to or in the neighbourhood of those waters the harbour authority may, if it thinks fit, appoint any officer of the authority or any other person to inspect the premises, and any officer or person so appointed may at all reasonable times enter upon and inspect the premises.

Ibid. s. 6 (2).

(3) If any person obstructs or interferes with any person authorised to enter on any vessels or premises under this section, he shall, on summary conviction, be liable in respect of each offence to a penalty not exceeding *ten* pounds.

Ibid. s. 6 (3).

8. (1) Where an offence under this Act is alleged to have been committed by the master of a vessel who thereafter departs from the State before the expiration of the period within which proceedings for the offence might

Legal proceedings
Ibid. s. 7 (1).

might have been instituted against him, proceedings for the offence may, notwithstanding anything in the Justices Act, 1902, be instituted against him at any time within two months next after the date on which he first returns to the State.

12 & 13 Geo.
V, Ch. 39,
s. 7 (2).

(2) For the purpose of any proceedings for an offence under this Act, the offence may be treated as having been committed either at the place at which it was actually committed or at any place in which the person charged with the offence may at any time be.

(3) Where a penalty imposed by any court in proceedings against the owner or master of a vessel for an offence under this Act is not paid at the time and in the manner ordered by the court, the court shall, without prejudice to any other powers of the court for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or sale of the vessel, her tackle, furniture, and apparel.

Ibid. s. 7 (4).

(4) Proceedings for an offence under this Act shall not be instituted except by the harbour authority or by some officer appointed by it in writing.

(5) Every penalty recovered for an offence against this Act shall be paid to the Consolidated Revenue Fund, save that if the offence relates to the Port of Sydney the penalty shall be paid to the Sydney Harbour Trust Commissioners, to be applied by them for the purposes of the Sydney Harbour Trust Act, 1900.

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Oil in Navigable Waters.

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SCHEDULE.

OIL IN NAVIGABLE WATERS ACT, 1926.

Particulars of transfer of oil in bulk.

Name of vessel

Port of registry

Transferred at

Date and time

Quantity.....tons.

Description

From what vessel or station.....

To what vessel or station.....

Date.....

Signed.....

Master (or other person responsible.)
