

Navigation

No. 1 of 1970

An Act to amend the *Navigation Act* 1912–1968 for the purpose of preventing the Pollution of the Coast, Coastal Waters and Australian Reefs by Oil.

[Assented to 20 March 1970]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Navigation Act* 1970.

Short title
and citation.

(2.) The *Navigation Act* 1912–1968* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Navigation Act* 1912–1970.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Commence-
ment.

* Act No. 4, 1913, as amended by No. 32, 1919; No. 1, 1921; No. 8, 1925; No. 8, 1926; No. 49, 1934; No. 30, 1935; No. 1, 1943; No. 80, 1950; No. 109, 1952; No. 96, 1953; No. 46, 1956; No. 36, 1958; No. 96, 1961; No. 1, 1965; No. 93, 1966; No. 60, 1967; and No. 62, 1968.

Parts.

3. Section 5 of the Principal Act is amended by inserting before the words—

“ Part VIII.—Limitation of Liability in respect of Government Ships (Sections 330–336).”

the words—

“ Part VIIA.—Prevention of Pollution of the Coast and Coastal Waters by Oil (Sections 329D–329K).”.

4. After Part VII. of the Principal Act the following Part is inserted:—

“ PART VIIA.—PREVENTION OF POLLUTION OF THE COAST AND COASTAL WATERS BY OIL.

Definitions.

“ 329D. In this Part—

‘ Australian coastal waters ’ means Australian territorial waters, and includes the territorial waters of any Territory of the Commonwealth not forming part of the Commonwealth;

‘ Australian reef ’ means any reef in Australian waters, including Australian waters beyond territorial limits;

‘ cargo ’ includes ballast and ship’s stores and fuel;

‘ oil ’ means crude oil, fuel oil, heavy diesel oil and lubricating oil, and includes any mixture of any such oil with water or any other substance;

‘ Territory of the Commonwealth ’ does not include the Territory of Papua or the Territory of New Guinea;

‘ the Australian coast ’ includes the coast of any island forming part of Australia, the coast of any Territory of the Commonwealth and the coast of any island forming part of a Territory of the Commonwealth.

Application of Part.

“ 329E. Section three hundred and twenty-nine F of this Act does not apply in relation to a ship not registered in Australia unless the ship is in Australian coastal waters.

Powers of Minister.

“ 329F.—(1.) Where the Minister is satisfied that—

(a) oil is escaping from, or is likely to escape from, a ship; and

(b) the oil is polluting, or is likely to pollute, any Australian coastal waters, any part of the Australian coast or any Australian reef,

the Minister may, for the purpose of preventing the pollution or likely pollution, or reducing the extent of the pollution or likely pollution, require the owner, agent or master of the ship, or all or any of them, by notice served on him or them, as the case may be, to take such action in relation to the ship or its cargo, or the ship and its cargo, as is specified in the notice.

“(2.) Without limiting the generality of the last preceding sub-section, the action that the Minister may, under that sub-section, require the owner, agent or master of a ship, or all or any of them, to take includes—

- (a) action to prevent the escape of oil from the ship;
- (b) the removal of oil from the ship, or a specified part of the ship, in such manner, if any, as is specified by the Minister to such place, if any, as is so specified; and
- (c) the removal of the ship to a place specified by the Minister.

“(3.) The Minister may, in a notice under sub-section (1.) of this section in respect of a ship—

- (a) prohibit the removal of the ship from a place specified in the notice except with, and in accordance with, the approval of the Minister; and
- (b) prohibit the removal from the ship of any cargo, or any cargo specified in the notice, except with, and in accordance with, the approval of the Minister.

“329G.—(1.) A person who fails to comply with a notice served on him under the last preceding section is guilty of an offence against this Part punishable upon conviction by a fine not exceeding Two thousand dollars and, in respect of each day on which oil escapes from the ship to which the notice relates by reason of his not having so complied or escapes to a greater extent than it would have escaped if he had complied with the notice, an additional fine not exceeding Two thousand dollars. Offences.

“(2.) An offence against this section may be prosecuted summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

“(3.) Where proceedings for an offence against this Part are brought in a court of summary jurisdiction, the court may commit the defendant for trial or, with the consent of the defendant, determine the proceedings.

“(4.) It is a defence to a prosecution for an offence against this section if the person charged with the offence proves that his failure to comply with the notice resulted from the need to save life at sea.

“329H.—(1.) Where a person fails to comply, or fails to comply in part, with a notice served on him under section three hundred and twenty-nine F of this Act, the Minister may, whether or not the person has been convicted of an offence against this Part by reason of his having so failed to comply, cause such things to be done as he thinks proper— Powers of Minister in case of non-compliance with notice.

- (a) for the carrying out of the action required by the notice to be carried out; and
- (b) for preventing the pollution, or reducing the extent of the pollution, of any Australian coastal waters, any part of the Australian coast or any Australian reef by oil that has escaped from the ship by reason of the notice not having been complied with or by oil that has been discharged from the ship in contravention of the notice.

“(2.) The amount of any expense or other liability incurred by the Minister in, or by reason of, the exercise of his powers under the last preceding sub-section in relation to a ship in respect of which a notice has been served under this Part, its cargo or oil that has escaped or been discharged from the ship is a debt due to the Commonwealth by the person or persons on whom the notice was served and may be recovered from that person, or all or any of those persons, as the case may be, and is a charge upon the ship, which may be detained by a person authorized by the Minister until the amount is paid.

Serving of
notices.

“329J.—(1.) A notice under this Part shall, subject to the next succeeding sub-section, be served personally on the person to whom it is addressed or, if the person is a company, on a director, secretary or other officer of the company.

“(2.) Where notice is to be served on the master of a ship and the master is not on board the ship or, for any other reason, it is not practicable to serve the notice on him personally, it may be served on him by handing the notice to any person on board the ship who appears to be an officer or other member of the crew of the ship.

Saving of
other laws.

“329K. This Part shall be read and construed as being in addition to, and not in derogation of or in substitution for, any other law of the Commonwealth or of a State or Territory of the Commonwealth.

Limitation of
operation of
this Part.

“329L. This Part shall cease to have effect on the eighteenth day of September, One thousand nine hundred and seventy, and shall be deemed to have been repealed on that day.”.
