



ANNO DECIMO OCTAVO

## ELIZABETHAE II REGINAE

A.D. 1969

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### No. 51 of 1969

#### An Act to amend the Prevention of Pollution of Waters by Oil Act, 1961-1964.

[Assented to 27th November, 1969.]

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

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

(2) The Prevention of Pollution of Waters by Oil Act, 1961-1964, as amended by the Statute Law Revision Act, 1965, and by this Act, may be cited as the "Prevention of Pollution of Waters by Oil Act, 1961-1969".

(3) The Prevention of Pollution of Waters by Oil Act, 1961-1964, as amended by the Statute Law Revision Act, 1965, is hereinafter referred to as "the principal Act".

2. Section 3 of the principal Act is amended—

(a) by striking out from subsection (1) the definition of "Board";

and

(b) by striking out the definition of "the jurisdiction" and inserting in lieu thereof the following definitions :—

Amendment of  
principal Act,  
s. 3—  
Interpretation.

“the jurisdiction” means—

- (a) the sea lying within the gulfs, bays, creeks, rivers, inlets, ports and harbors of the State ;
  - (b) the rivers and inland navigable waters of the State ;
  - (c) South Australian waters including all waters within a distance of one marine league from the low water mark on the seashore ;
- and
- (d) all waters that are territorial waters of Australia adjacent to the State:

“the Minister” means the Minister of Marine ;

“the owner” of a ship includes a charterer whether he exercises any direct control over the navigation or use of the ship or not.

Amendment of  
principal Act,  
s. 7—  
Removal of  
oil pollution.

**3.** Section 7 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “the Board may take such action as it” and inserting in lieu thereof the passage “the Minister may take such action as he” ;

and

- (b) by striking out from subsection (3) the word “Board” and inserting in lieu thereof the word “Minister”.

Amendment of  
principal Act,  
s. 8—  
Equipment of  
ships.

**4.** Section 8 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “and shall comply with such requirements as may be prescribed by regulation” and inserting in lieu thereof the passage “as may be prescribed which shall be managed, operated and maintained in accordance with the regulations” ;
- (b) by striking out from subsection (2) the word “Board” wherever it occurs and inserting in lieu thereof, in each case, the word “Minister” ;
- (c) by inserting after subsection (2) the following subsection :—

(2a) The regulations may prohibit or restrict the carriage of water in any tank that has contained oil by any prescribed ship or class of ships ;

- (d) by striking out from subsection (3) the word "Board" and inserting in lieu thereof the word "Minister";
  - (e) by striking out from subsection (4) the passage "both the owner and the master of the ship shall" and inserting in lieu thereof the passage "the owner, the agent and the master of the ship shall each";
- and
- (f) by striking out from subsection (5) the passage "Five hundred pounds" and inserting in lieu thereof the passage "one thousand dollars".

5. Section 9 of the principal Act is amended—

Amendment of  
principal Act,  
s. 9—  
Records.

- (a) by inserting after the word "them" being the last word of paragraph (a) of subsection (4) the passage "and provide that an entry shall be made in the records forthwith upon the occurrence of any event or circumstance of, or in relation to which, an entry is required by the regulations";
- (b) by inserting after the word "period" being the last word of paragraph (b) of subsection (4) the passage "in a prescribed place";
- (c) by striking out paragraph (a) of subsection (6) and inserting in lieu thereof the following paragraph :—
  - (a) If the regulations relating to the records to be kept by the master or agent of a ship are not complied with in any respect, the owner, the agent and the master of the ship shall each be guilty of an offence against this section. ;

and

- (d) by striking out from subsection (7) the passage "Five hundred pounds" and inserting in lieu thereof the passage "one thousand dollars".

6. Section 10 of the principal Act is amended—

Amendment of  
principal Act,  
s. 10—  
Report and  
investigation  
of discharge.

- (a) by striking out from subsection (1) the passage "and, if he fails to do so, shall be guilty of an offence against this section" and inserting in lieu thereof the passage "and of the names and addresses of the owner, agent and master of the ship, and if this subsection is not complied with, the owner, agent and master of the ship shall each be guilty of an offence against this section";

- (b) by striking out from subsections (1), (2) and (3) the word "Board" wherever it occurs commencing with a capital letter, and inserting in lieu thereof, in each case, the word "Minister" ;
- (c) by inserting after the word "Convention" in paragraph (b) of subsection (2) the passage "and any records that may be relevant to the investigation" ;
- (d) by striking out the word "and" immediately preceding paragraph (d) of subsection (2) and inserting after that paragraph the following paragraph :—
- and
- (e) may require any person to answer any question pertinent to the investigation. ;
- (e) by inserting after the passage "under this section" in subsection (5) the passage "or who, in giving any answer required under this section, makes a statement that is false or misleading in any material particular" ;
- and
- (f) by striking out from subsection (6) the passage "Two hundred pounds" and inserting in lieu thereof the passage "four hundred dollars".

Amendment of  
principal Act,  
s. 11—  
Oil reception  
facilities.

7. Section 11 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage "Board may provide in such places as it" and inserting in lieu thereof the passage "Minister may provide in such places as he" ;
- and
- (b) by striking out from subsections (2), (3), (4), (5) and (6) the word "Board" wherever it occurs, and inserting in lieu thereof, in each case, the word "Minister".

Amendment of  
principal Act,  
s. 12—  
Restriction  
upon oil  
transfer at  
night.

8. Section 12 of the principal Act is amended—

- (a) by striking out from subsections (1) and (2) the word "Board" wherever it occurs and inserting in lieu thereof, in each case, the word "Minister" ;
- and
- (b) by striking out from subsection (3) the passage "Two hundred pounds" and inserting in lieu thereof the passage "four hundred dollars".

9. Section 13 of the principal Act is amended by striking out from subsection (1) the passage "on the recommendation of the Board".

Amendment of  
principal Act,  
s. 13—  
Regulations.

10. Section 14 of the principal Act is amended—

(a) by striking out from subsection (1) the passage "Board to report to it" and inserting in lieu thereof the passage "Minister to report to him";

Amendment of  
principal Act,  
s. 14—  
Inspection and  
report.

and

(b) by striking out from subsection (3) the passage "Two hundred pounds" and inserting in lieu thereof the passage "four hundred dollars".

11. Section 15 of the principal Act is amended—

(a) by striking out the word "Board" wherever it occurs and inserting in lieu thereof, in each case, the word "Minister";

Amendment of  
principal Act,  
s. 15—  
Dispensations  
and  
exemptions.

(b) by striking out from subsection (1) the passage "it may direct" and inserting in lieu thereof the passage "he may direct";

and

(c) by striking out from subsection (3) the passage "it deems appropriate" and inserting in lieu thereof the passage "he deems appropriate".

12. Section 16 of the principal Act is amended—

(a) by striking out from paragraph (a) the passage "*prima facie* evidence of the facts stated in those records" and inserting in lieu thereof the passage "accepted by the court as evidence of the truth of the matters stated in those records unless the contrary is proved";

Amendment of  
principal Act,  
s. 16—  
Evidence.

(b) by striking out from paragraph (b) the passage "which is certified by the person by whom the records are required to be kept to be a true copy of the entry, shall be *prima facie* evidence of the facts stated in the entry" and inserting in lieu thereof the passage "or of an entry in any other records, which copy is made pursuant to section 10 of this Act, shall be accepted by the court as evidence of the truth of the matters stated in the entry unless the contrary is proved":

and

(c) by striking out paragraph (c) and inserting in lieu thereof the following paragraphs :—

(c) a statement made by the owner, agent, or master of a ship pursuant to section 10 shall be taken as evidence of the truth of any matter so stated unless the contrary is proved ;

(d) any document purporting—

(i) to be records of the kind referred to in paragraph (a) of this section shall be deemed to be such records unless the contrary is proved ;

(ii) to be a copy made pursuant to section 10 of this Act shall be deemed to be such a copy unless the contrary is proved ;

or

(iii) to record a statement made by the owner, agent or master of a ship pursuant to section 10 of this Act shall be deemed correctly to record that statement unless the contrary is proved ;

and shall on production thereof be admissible in evidence without further proof ;

and

(e) an allegation in a complaint that a person therein named is or was, on a date alleged, the owner, agent or master of a ship therein named shall be accepted by the court as evidence of the truth of the allegation unless the contrary is proved.

Amendment of  
principal Act,  
s. 17—  
Proceedings.

13. Section 17 of the principal Act is amended—

(a) by striking out subsections (1) and (2) and inserting in lieu thereof the following subsections :—

(1) Proceedings for the recovery of a penalty for an offence under this Act may be taken by and in the name of the Director of Marine and Harbors, and shall not, without the approval of the Minister, be taken by any other person.

(2) The approval of the Minister for any such proceedings shall be sufficiently proved by the production of a statement in writing purporting to be signed by the Minister and to record his approval of the proceedings. ;

(b) by striking out from subsection (3) the passage "or employee of the Board in respect of an offence under this Act shall be deemed to have been approved by the Board" and inserting in lieu thereof the passage "of the Department of Marine and Harbors in respect of an offence under this Act shall be deemed to have been approved by the Minister";

and

(c) by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) Proceedings for an offence against this Act shall be disposed of summarily.

14. Section 18 of the principal Act is amended by striking out the word "Board" and inserting in lieu thereof the word "Minister".

Amendment of  
principal Act,  
s. 18—  
Evidence of  
administrative  
acts.

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

J. W. HARRISON, Governor.