

Pollution of Waters by Oil and Noxious Substances Bill

EXPLANATORY MEMORANDUM

Clauses 1 and 2 relate to the purpose and commencement of the Act.

Clause 3 sets out definitions of a number of terms used in the Act.

Clause 4 provides for the Act to bind the Crown and also provides for liability to prosecution.

Clause 5 provides that the Act is in addition to and not in derogation of any other law of the State.

Clause 6 provides for delegation of powers by the Minister or by a harbor master.

Clause 7 provides for terms used in the Act and in Annex 1 to the Convention to have the same meaning.

Clause 8.

Sub-clause (1) provides for the discharge of oil or of an oily mixture from a ship into State waters to be an offence.

Sub-clause (2) provides for the discharge from a ship not to be an offence where the discharge is for safety reasons or in consequence of unintentional damage to the ship or is for the purpose of combating specific pollution incidents.

Sub-clause (3) defines intentional damage.

Sub-clause (4) sets out the circumstances in which discharges from an oil tanker or a ship will not constitute an offence.

Sub-clause (5) defines oily mixture for the purposes of sub-clause (4).

Sub-clause (6) provides for the onus of proof in proceedings for an offence against sub-clause (1).

Clause 9 provides for the non-retention on board the ship of certain oil residues to be an offence and also provides for the manner of discharge of oil residues from a ship to a shore reception facility.

Clause 10.

Sub-clause (1) requires the master of a ship to give notification of any discharge of oil or of an oily mixture.

Sub-clause (2) provides for inability to give notification to be a defence.

Sub-clause (3) provides for notification where the master is unable to do so or where the ship has been abandoned.

Sub-clauses (4) and (5) provide for defences on a prosecution under sub-clause (3).

Sub-clauses (6)–(9) provide for reports of a discharge to be submitted and for reports to be admitted in evidence in prosecutions.

Sub-clause (10) defines prescribed incident.

Clause 11 provides for certain ships to carry an oil record book, and for the manner in which and the time within which entries must be made in the book.

Clause 12 makes it an offence for false or misleading entries to be made in an oil record book.

Clause 13 requires oil record books to be retained and to be available for inspection.

Clause 14 sets out definitions of a number of terms used in the Bill.

Clause 15 provides for the application of Divisions 1 and 2 to a mixture containing oil and a liquid substance.

Clause 16 provides for regulations to specify categories of noxious liquid substances.

Clause 17 provides for regulations to declare Appendix III substances.

Clause 18.

Sub-clause (1) makes it an offence for bulk liquid substances to be discharged into State waters.

Sub-clause (2) provides for the discharge not to be an offence where the discharge is for safety reasons or in consequence of unintentional damage to the ship or is for the purpose of combating specific pollution incidents.

Sub-clause (3) defines intentional damage.

Sub-clauses (4)–(10) provide for the circumstances in which discharge of residues diluted by water will not constitute an offence.

Sub-clauses (11)–(14) set out other types of discharges to which sub-clause (1) is not to apply and provide for the onus of proof in prosecutions.

Sub-clause (15) sets out a definition of inspector.

Clause 19.

Sub-clause (1) makes it an offence to fail to report a discharge of a liquid substance.

Sub-clause (2) provides for inability to comply with sub-clause (1) to be a defence.

Sub-clause (3) provides for notification where the master has been unable to do so or where the ship has been abandoned.

Sub-clauses (4) and (5) provide for defences on a prosecution under sub-clause (3).

Sub-clauses (6)–(9) provide for reports of a discharge to be submitted and for reports to be admitted in evidence in prosecutions.

Sub-clause (10) defines liquid substance and prescribed incident.

Clause 20 provides for a trading ship proceeding on an intra-state voyage that carries liquid substances in bulk, to carry and make appropriate entries in, a cargo record book.

Clause 21 makes it an offence to make false or misleading entries in a cargo record book.

Clause 22 requires cargo record books to be retained and made available for inspection.

Clause 23 provides for regulations to be made in relation to the cleaning of tanks of ships.

Clause 24 provides for the powers of inspectors and makes it an offence to hinder or obstruct an inspector.

Clause 25 provides for prosecutions for an offence to be brought at any time.

Clause 25 provides for the service of summonses.

Clause 26 provides for the admissibility in evidence of records kept under the Act.

Clause 27 contains evidentiary provisions.

Clause 28 provides for the Minister to appoint qualified persons to be analysts for the purposes of the Act and for certificates of analysts to be received in evidence.

Clause 29 provides for no liability to attach to an inspector.

Clause 30 sets out the matters as to which the Governor in Council may make regulations.

Clause 31 provides for orders made in pursuance of the regulations to be subject to disallowance by Parliament and provides for the interpretation of orders.

Clause 32 provides for regulations or orders to prescribe matters by reference to other instruments.

Clause 33 makes consequential amendments to the *Navigable Waters (Oil Pollution) Act 1960*.

Clause 34 limits the provisions of the Act applying to ships carrying or using oil to specified ships or vessels.

Clause 35 provides for expressions used in the Act to have the same meaning as in the Convention.

Clause 36 provides for the making of regulations and orders to give effect to Regulations 13 to 19 of Annex 1.

Clause 37 provides for the issue of ship construction certificates.

Clause 38.

Sub-clauses (1)–(4) provide for notice to be given where the construction of a ship in respect of which a ship construction certificate is issued, is altered or where the ship is damaged.

Sub-clauses (5)–(7) provide for the cancellation of ship construction certificates.

Clause 39 provides for ships in respect of which a ship construction certificate has been issued, to be surveyed periodically.

Clause 40 provides for certain ships not to begin a voyage unless a ship construction certificate is in force for that ship.

Clause 41 provides for expressions used in the Act to have the same meaning as in the Convention.

Clause 42 provides for the making of regulations and orders to give effect to Regulation 13 of Annex II.

Clause 43 provides for the issue of chemical tanker construction certificates.

Clause 44.

Sub-clauses (1)–(4) provide for notice to be given where the construction of a ship in respect of which a chemical tanker construction certificate is issued, is altered or where the ship is damaged.

Sub-clauses (5)–(7) provide for the cancellation of chemical tanker construction certificates.

Clause 45 provides for ships in respect of which a chemical tanker construction certificate has been issued, to be surveyed periodically.

Clause 46 provides for certain ships not to begin a voyage unless there is in force in respect of the ship a chemical tanker construction certificate.

Clause 47 provides for the matters in respect of which regulations may be made by the Governor in Council.