



# **Protection of the Sea (Civil Liability) Amendment Act 2000**

**No. 122, 2000**



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**An Act to amend the law relating to civil liability  
for pollution damage, and for related purposes**

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# Protection of the Sea (Civil Liability) Amendment Act 2000

No. 122, 2000

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## An Act to amend the law relating to civil liability for pollution damage, and for related purposes

[Assented to 5 October 2000]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Protection of the Sea (Civil Liability) Amendment Act 2000*.

### 2 Commencement

- (1) Sections 1, 2 and 3 of this Act commence on the day on which this Act receives the Royal Assent.

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- (2) Parts 3 and 4 of Schedule 1 commence on the day after the day on which this Act receives the Royal Assent.
  - (3) The remaining provisions of this Act commence 6 months after the day on which this Act receives the Royal Assent.

### **3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendment of the Protection of the Sea (Civil Liability) Act 1981**

### **Part 1—Amendments relating to insurance cover by certain ships**

#### **1 After Part III**

Insert:

### **Part IIIA—Proof of possession of adequate insurance cover by certain ships**

#### **19A Definitions**

In this Part:

**Government ship** means a ship (including a warship) owned by a country, and includes a ship owned by the Commonwealth or by a State.

**officer** means:

- (a) an officer of Customs within the meaning of the *Customs Act 1901*; or
- (b) a surveyor appointed under section 190 of the *Navigation Act 1912*; or
- (c) a member or a special member of the Australian Federal Police within the meaning of the *Australian Federal Police Act 1979*; or
- (d) a person included in a class of persons declared by the regulations to be a class of officers for the purposes of this section.

**owner** has the same meaning as in the Convention.

**relevant insurance certificate**, in relation to a ship, means a document or documents that contain the prescribed information, being information relevant to establishing that the owner of the ship is maintaining insurance or other financial security in respect of the ship that covers the liability of the owner for pollution

damage caused in Australia for an amount that is not less than the prescribed amount.

*State* includes the Northern Territory.

### **19B Application**

- (1) Subject to subsection (2), this Part applies to a ship:
  - (a) that carries oil as cargo or bunker; and
  - (b) that has a gross tonnage of 400 or more; and
  - (c) to which Part III does not apply.
- (2) This Part does not apply to a Government ship, other than a Government ship that is being used for commercial purposes.

### **19C Insurance certificates to be carried on ships to which Part applies**

- (1) If a ship enters or leaves, or attempts to enter or leave, a port in Australia without carrying on board a relevant insurance certificate in respect of the ship, the master and the owner of the ship are each guilty of an offence punishable, upon conviction, by a fine of not more than 500 penalty units.
- (2) An officer may require the master or other person in charge of a ship to produce a relevant insurance certificate in respect of the ship and, if the master or other person refuses or fails to produce such a certificate to the officer, he or she is guilty of an offence punishable, upon conviction, by a fine of not more than 20 penalty units.
- (3) If an officer has reasonable grounds to believe that the master or other person in charge of a ship is attempting to take the ship out of a port in Australia at a time when the ship is not carrying on board a relevant insurance certificate in respect of the ship, the officer may detain the ship until such time as such a certificate is obtained or produced to the officer, as the case requires.
- (4) The master of a ship detained at a port under subsection (3), and the owner of such a ship, are each guilty of an offence punishable on conviction by a fine of not more than 500 penalty units if the ship leaves the port before it has been released from detention.



- (5) Strict liability applies to subsections (1), (2) and (4).
- (6) Chapter 2 of the *Criminal Code* applies to an offence against this section.

## **Part 2—Amendments relating to limitation of liability**

### **2 Subsection 3(1)**

Insert:

*Authority* means the Australian Maritime Safety Authority.

### **3 Subsection 20(1)**

Omit “Minister”, substitute “Authority”.

Note: The heading to section 20 is altered by omitting “**Minister**” and substituting “**Authority**”.

### **4 Subsection 20(1)**

Omit “his or her”, substitute “the Authority’s”.

### **5 Subsection 20(3)**

Omit all the words from and including “exceed”, substitute “exceed the limit of any liability in respect of the incident that applies to the incident under the provisions of one or more international conventions, being provisions in force in relation to Australia.”.

### **6 Subsection 20(7) (definition of *adjusted register tonnage*)**

Repeal the definition.

### **7 Subsection 20(7) (definition of *tonnage factor*)**

Repeal the definition.

### **8 Paragraph 21(a)**

Omit “Minister”, substitute “Authority”.

Note: The heading to section 21 is altered by omitting “**Minister**” and substituting “**Authority**”.

### **9 Paragraph 21(a)**

Omit “his or her”, substitute “the Authority’s”.

## **Part 3—Amendments relating to threat of discharge or disposal**

### **10 Part IVA (heading)**

Repeal the heading, substitute:

### **Part IVA—Recovery of loss etc. incurred by the Authority because of discharges or threatened discharges from ships**

### **11 Paragraph 22A(1)(b)**

After “ship”, insert “, or to combat a threat of pollution in the marine environment caused by a threat of a discharge or disposal from a ship”.

### **12 Paragraph 22A(2)(a)**

After “occurred”, insert “, or from which there was the threat of a discharge or disposal”.

### **13 Paragraph 22A(2)(b)**

After “disposal”, insert “, or the threat of a discharge or disposal”.

### **14 Subsection 22A(4)**

Repeal the subsection.

## **Part 4—Amendments relating to conversion to penalty units**

### **15 Paragraphs 15(1)(a) and (b)**

Omit “\$50,000”, substitute “500 penalty units”.

### **16 Paragraph 15(1)(c)**

Omit “\$100,000”, substitute “1,000 penalty units”.

### **17 Paragraphs 15(2)(a) and (b)**

Omit “\$50,000”, substitute “500 penalty units”.

### **18 Paragraph 15(2)(c)**

Omit “\$100,000”, substitute “1,000 penalty units”.

### **19 Paragraphs 15(3)(a) and (b)**

Omit “\$2,000”, substitute “20 penalty units”.

### **20 Paragraph 15(3)(c)**

Omit “\$5,000”, substitute “50 penalty units”.

### **21 Subsection 15(4)**

Omit “\$2,000”, substitute “20 penalty units”.

### **22 Subsection 17(5) (penalty)**

Omit “\$2,000”, substitute “20 penalty units”.

### **23 Paragraphs 22(3)(a) and (b)**

Omit “\$5,000”, substitute “50 penalty units”.

### **24 Paragraph 22(3)(c)**

Omit “\$10,000”, substitute “100 penalty units”.

### **25 Paragraph 23(3)(a)**

Omit “\$2,000”, substitute “20 penalty units”.

### **26 Paragraph 23(3)(b)**

Omit “\$5,000”, substitute “50 penalty units”.

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*[Minister’s second reading speech made in—  
House of Representatives on 28 June 2000  
Senate on 31 August 2000]*

(114/00)