



Protection of the Sea (Civil Liability) Act 1981

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About this compilation

This compilation

This is a compilation of the *Protection of the Sea (Civil Liability) Act 1981* that shows the text of the law as amended and in force on 20 March 2024 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to civil liability for pollution damage

Part I—Preliminary

1 Short title

This Act may be cited as the *Protection of the Sea (Civil Liability) Act 1981*.

2 Commencement

- (1) This Act shall come into operation on a date to be fixed by Proclamation.
- (2) The date fixed under subsection (1) shall not be a date earlier than the date on which the International Convention on Civil Liability for Oil Pollution Damage comes into force for Australia.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

applied provisions of the Convention means the provisions of the Convention that, by virtue of section 8, have the force of law as part of the law of the Commonwealth.

Australia includes the external Territories.

Authority means the Australian Maritime Safety Authority.

Civil Liability Convention means the International Convention on Civil Liability for Oil Pollution Damage (a copy of the English text of which is set forth in Schedule 1).

country to which the Civil Liability Convention applies means a country or territory specified in a notice under section 6.

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regulated Australian vessel: a ship is a ***regulated Australian vessel*** if it is a regulated Australian vessel for the purposes of the *Navigation Act 2012*.

the 1992 Protocol means the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (a copy of the English text of which is set out in Schedule 2), as amended by resolution LEG.1(82) adopted by the Legal Committee of the International Maritime Organization on 18 October 2000 (a copy of the English text of which is set out in Schedule 3).

the Convention means Articles I to XII ter, including the model certificate, of the Civil Liability Convention as amended by the 1992 Protocol.

- (2) Except in so far as the contrary intention appears, an expression that is used in either Part II or Part III and in the Convention (whether or not a particular meaning is assigned to it by the Convention) has, in that Part, the same meaning as in the Convention.

4 Act binds the Crown

This Act binds the Crown in each of its capacities.

5 Operation of Act

This Act applies both within and outside Australia and extends to every external Territory.

6 Declaration of countries to which Civil Liability Convention applies

The Minister may, by notice published in the *Gazette*, declare that, for the purposes of this Act, a country or territory, other than Australia, specified in the notice is a country or territory to which the Civil Liability Convention applies.

6A Application of the *Criminal Code*

Chapter 2 (except Part 2.5) of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part II—Liability and limitation of liability under Convention

7 Application of this Part

- (1) This Part, the applied provisions of the Convention and regulations made for the purposes of section 12 do not apply in relation to a ship that is not a regulated Australian vessel, when the ship is in a particular area, so far as a law of a State or the Northern Territory gives effect to the applied provisions of the Convention in relation to that ship when it is in that area.
- (2) However, subsection (1) does not apply in relation to an incident that:
 - (a) is an incident Article IV of the Convention applies to; and
 - (b) involves both:
 - (i) one or more ships that are regulated Australian vessels; and
 - (ii) one or more ships that are not regulated Australian vessels.

8 Certain provisions of Convention to have the force of law

- (1) The following provisions of the Convention have the force of law as part of the law of the Commonwealth: Articles I to VI (inclusive), paragraphs 1, 8 and 9 of Article VII, Article VIII, paragraphs 1 and 3 of Article IX, Article XII bis (other than paragraph (b)), paragraph 1 of Article XI.
- (2) For the purposes of paragraph 1 of Article VII of the Convention as so having the force of law, that paragraph shall be treated as requiring the owner of a ship referred to in that paragraph, being a ship registered in Australia, to maintain the insurance or other financial security referred to in that paragraph.

9 Claims for compensation

The Supreme Courts of the States are invested with federal jurisdiction, and jurisdiction, to the extent that the Constitution permits, is conferred on the Supreme Courts of the Territories, to hear and determine claims for compensation under the applied provisions of the Convention in respect of incidents:

- (a) that have caused pollution damage in a place to which the Convention applies; or
- (b) in relation to which preventive measures have been taken to prevent or minimize pollution damage in a place to which the Convention applies.

10 Applications to determine limit of liability

- (1) Where a claim for compensation under the applied provisions of the Convention is made in the Supreme Court of a State or Territory against, or is apprehended by, the owner of a ship, or the insurer or other person providing financial security for the liability of the owner of a ship for pollution damage, the owner, the insurer or that other person, as the case may be, may apply:
 - (a) in a case where a claim for compensation under the applied provisions of the Convention has been made in the Supreme Court of a State or Territory—to that Court; or
 - (b) in any other case—to the Supreme Court of any State or the Supreme Court of any Territory having jurisdiction under this subsection;

to determine whether he or she may limit his or her liability under the applied provisions of the Convention and, if so, the limit of that liability.

- (2) Where the Supreme Court of a State or Territory determines that a person may limit his or her liability under the applied provisions of the Convention, the Court may make such orders as it thinks fit with respect to the apportionment and distribution, in accordance with those provisions, of a fund for the payment of claims under those provisions.

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- (3) The Supreme Courts of the States are invested with federal jurisdiction, and, jurisdiction, to the extent that the Constitution permits, is conferred on the Supreme Courts of the Territories, to hear and determine proceedings under this section.

11 Transfer of proceedings

- (1) The Supreme Court of a State or Territory in which a claim for compensation has been made under the applied provisions of the Convention, or in which proceedings under section 10 have been instituted, may, if the Court thinks fit, at any stage in the proceedings, upon application or of its own motion, by order, transfer the proceedings to another Supreme Court.
- (2) Where proceedings are transferred from a Supreme Court in pursuance of subsection (1):
 - (a) all documents filed, and moneys or guarantees lodged, in that Court in those proceedings shall be transmitted by the Registrar or other proper officer of that Court to the Registrar or other proper officer of the Court to which the proceedings are transferred; and
 - (b) the Court to which the proceedings are transferred shall proceed as if the proceedings had been originally instituted in that Court and as if the same proceedings had been taken in that Court as had been taken in the Court from which the proceedings were transferred.

12 Regulations giving effect to applied provisions of Convention etc.

- (1) The regulations may prescribe matters that are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to the applied provisions of the Convention and, for or in connection with that purpose, may make provision for and in relation to:
 - (a) the conversion of the amounts of money referred to in paragraph 1 of Article V of the Convention into amounts of money expressed in the currency of Australia;

- (b) the kinds of guarantees that are acceptable for the purposes of paragraph 3 of Article V of the Convention;
 - (c) the extent to which the right of subrogation provided for in paragraph 5 of Article V of the Convention may be exercised by a person other than a person referred to in that paragraph; and
 - (d) the ascertainment of the tonnage of a ship, including the estimation of the tonnage of a ship in circumstances where it is not possible or reasonably practicable to measure its tonnage.
- (2) Subsection (1) shall not be taken as limiting the power of a judge or judges of the Supreme Court of a State or Territory to make rules of court with respect to a matter that is not provided for in the applied provisions of the Convention or in regulations made by virtue of that subsection.

Part III—Insurance certificates relating to liability for pollution damage

13 Interpretation

- (1) 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.
- (2) In this Part:
 - (a) a reference to a contract of insurance, or other financial security, in respect of a ship shall be construed as a reference to a contract of insurance, or other financial security, covering the liability of the owner of the ship under the applied provisions of the Convention for pollution damage caused in Australia or on the territory, including the territorial sea, of a country to which the Civil Liability Convention applies;
 - (b) a reference to the limits of the liability prescribed by paragraph 1 of Article V of the Convention, in relation to a ship, shall be construed as a reference to the amount to which the owner of the ship is entitled, under that paragraph, in its application to the ship as part of the law of the Commonwealth, to limit his or her liability under the Convention in respect of any one incident;
 - (c) a reference to a State shall be construed as including a reference to the Northern Territory.

14 Application

- (1) Subject to subsection (2), this Part applies to every ship that is carrying more than 2,000 tons of oil in bulk as cargo and, where such a ship is unregistered, this Part applies to and in relation to the ship as if it were registered in the country whose flag the ship is flying.

- (2) This Part does not apply to a Government ship, other than a Government ship that is being used for commercial purposes.

15 Insurance certificates to be carried on certain ships

- (1) Where a ship to which this Part applies enters or leaves, or attempts to enter or leave, a port in Australia, or arrives at, or leaves, or attempts to arrive at or leave, a terminal in the territorial sea of Australia, without carrying on board the ship a relevant insurance certificate in respect of the ship, being such a certificate that is in force, the master and owner of the ship each commit an offence against this subsection punishable, upon conviction, by a fine not exceeding:
- (a) in the case of the master—500 penalty units;
 - (b) in the case of the owner, if the owner is not a body corporate—500 penalty units; and
 - (c) in the case of the owner, if the owner is a body corporate—1,000 penalty units.
- (2) Where a ship to which this Part applies, being a ship registered in Australia, enters or leaves, or attempts to enter or leave, a port in a country other than Australia, or arrives at, or leaves, or attempts to arrive at or leave, a terminal in the territorial sea of a country other than Australia, without carrying on board the ship a relevant insurance certificate in respect of the ship, being such a certificate that is in force, the master and owner of the ship each commit an offence against this subsection punishable, upon conviction, by a fine not exceeding:
- (a) in the case of the master—500 penalty units;
 - (b) in the case of the owner, if the owner is not a body corporate—500 penalty units; and
 - (c) in the case of the owner, if the owner is a body corporate—1,000 penalty units.
- (3) Where, otherwise than in circumstances to which subsection (1) applies or, in the case of a ship registered in Australia, to which subsection (2) applies, at any time a relevant insurance certificate is in force in respect of a ship to which this Part applies and is not

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carried on board the ship, the master and owner of the ship each commit an offence against this subsection punishable, upon conviction, by a fine not exceeding:

- (a) in the case of the master—20 penalty units;
- (b) in the case of the owner, if the owner is not a body corporate—20 penalty units; and
- (c) in the case of the owner, if the owner is a body corporate—50 penalty units.

(3A) An offence under subsection (1), (2) or (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(4) An officer may require the master or other person in charge of a ship to which this Part applies to produce a relevant insurance certificate in respect of the ship, being such a certificate that is in force, and, if he or she fails to produce the certificate to the officer, he or she commits an offence against this subsection punishable, upon conviction, by a fine not exceeding 20 penalty units.

(4A) An offence under subsection (4) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(5) Where an officer has reasonable grounds to believe that the master or other person in charge of a ship to which this Part applies is attempting to take the ship out of a port in Australia at a time when a relevant insurance certificate in respect of the ship, being such a certificate that is in force, is not being carried on board 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.

(6) This section is not intended to exclude or limit the concurrent operation of a provision of a law of a State giving effect to paragraphs 1, 2 and 3 of Article VII of the Convention in relation to a ship that is not a regulated Australian vessel.

(7) For the purposes of this section, a relevant insurance certificate in respect of a ship is:

- (a) if the ship is registered in Australia and is not a Government ship:
 - (i) in the case of a ship that is a regulated Australian vessel—a certificate issued under section 16 in respect of the ship; or
 - (ii) in the case of a ship that is not a regulated Australian vessel—a certificate issued under section 16 in respect of the ship, or a certificate issued in respect of the ship under a law of a State that makes provision giving effect to paragraphs 1, 2 and 3 of Article VII of the Convention in relation to that ship; or
 - (b) if the ship is registered in a country to which the Civil Liability Convention applies and is not a Government ship—a certificate issued, for the purposes of Article VII of the Convention, by or under the authority of the Government of that country; or
 - (c) if the ship is registered in a country that is not a country to which the Civil Liability Convention applies and is not a Government ship—a certificate issued under section 16 or a certificate that is, under the regulations, to be taken to be a relevant insurance certificate in respect of the ship for the purposes of this paragraph; or
 - (d) if the ship is owned by the Commonwealth—a certificate issued under section 18 in respect of the ship; or
 - (e) if the ship is owned by a State:
 - (i) a certificate issued under section 18 in respect of the ship; or
 - (ii) a certificate issued under a provision of the law of the State that makes provision in relation to ships owned by the State that corresponds with the provisions of section 18 in relation to ships owned by the Commonwealth; or
 - (f) if the ship is owned by the Government of a country other than Australia—a certificate of a kind referred to in subsection 18(1) issued by the Government of that country.
- (8) In this section, *officer* means:
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- (a) an officer of Customs within the meaning of the *Customs Act 1901*; or
- (b) an inspector within the meaning of the *Navigation Act 2012*; or
- (c) a person included in a class of persons declared by the regulations to be a class of officers for the purposes of this section.

16 Issue of insurance certificates

- (1) The owner, master or agent of a ship to which this Part applies, being a ship that is registered in Australia or in a country that is not a country to which the Civil Liability Convention applies, may make application to the Minister for the issue of an insurance certificate in respect of the ship.
- (2) An application under subsection (1):
 - (a) shall be in accordance with the form approved in an instrument under subsection (2A); and
 - (b) shall be lodged with a person who is a prescribed person for the purposes of this subsection.
- (2A) The Minister may, by notifiable instrument, approve a form for the purposes of paragraph (2)(a).
- (2B) The Minister must cause the form to be published on the Authority's website.
- (3) Where application is made to the Minister under subsection (1) in respect of a ship, the Minister shall:
 - (a) if he or she is satisfied that the owner of the ship is maintaining insurance or other financial security in respect of the ship in an amount that will cover the limits of liability prescribed by paragraph 1 of Article V of the Convention in relation to the ship—issue to the applicant an insurance certificate in respect of the ship; or
 - (b) if he or she is not so satisfied—refuse to issue such a certificate in respect of the ship.

- (4) An insurance certificate issued under subsection (3) in respect of a ship:
- (a) shall be in accordance with the form approved in an instrument under subsection (4A), being a form which contains, but is not limited to containing, the particulars specified in paragraph 2 of Article VII of the Convention;
 - (b) comes into force on such day as is specified in the certificate; and
 - (c) remains in force, subject to this Part, until the expiration of such day as is specified in the certificate, being:
 - (i) the day that is the last day in the period of 12 months commencing on the day on which the certificate comes into force; or
 - (ii) the day that the Minister is satisfied is the last day in the balance of the period during which the insurance or other financial security in respect of the ship is to remain in force;whichever is the earlier day.
- (4A) The Minister may, by notifiable instrument, approve a form for the purposes of paragraph (4)(a).
- (4B) The Minister must cause the form to be published on the Authority's website.
- (5) Such fees (if any) as are prescribed are payable in respect of the issue of an insurance certificate in respect of a ship under this section.
- (6) Where an insurance certificate is issued under this section in respect of a ship registered in Australia, the Minister shall cause a copy of the certificate to be forwarded to a person who is a prescribed person for the purposes of this subsection.

17 Extension, cancellation and lapsing of insurance certificates

- (1) Where:
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- (a) a ship in respect of which an insurance certificate has been issued under section 16 is not at a port in Australia at the time when the certificate expires or is about to expire; and
- (b) the Minister is satisfied that, after the day specified in the certificate as the day until which it is to remain in force, there will be in force a contract of insurance or other financial security in respect of the ship in an amount that will cover the limits of liability prescribed by paragraph 1 of Article V of the Convention in relation to the ship;
- the Minister may, if it appears proper and reasonable to do so, extend the certificate for a period that expires on or before the day that the Minister is satisfied is the last day in the balance of the period during which that contract of insurance or other financial security is to remain in force, being a period that does not exceed one month from the day referred to in paragraph (b).
- (2) An extension of an insurance certificate under subsection (1) is of no further force or effect after the arrival of the ship at a port in Australia.
- (3) The Minister may cancel an insurance certificate issued under section 16 that is in force in respect of a ship if he or she is satisfied that, by reason of any modification or variation of, or to, the contract of insurance or other financial security in respect of the ship, the owner of the ship will not be covered for an amount that is not less than the limits of liability prescribed by paragraph 1 of Article V of the Convention in relation to the ship.
- (4) If, while an insurance certificate issued under section 16 in respect of a ship registered in Australia or in a country that is not a country to which the Civil Liability Convention applies is in force, the ship ceases to be registered in Australia or in that country, as the case may be, the certificate so issued thereupon ceases to be in force.

- (5) Where an insurance certificate issued under section 16 in respect of the ship is cancelled under subsection (3) or ceases to be in force by virtue of subsection (4), the master shall forthwith cause the certificate to be lodged with a person referred to in paragraph 16(2)(b).

Penalty: 20 penalty units.

18 Government ships

- (1) Where a ship is owned by the Commonwealth or by a State, the Minister may issue:
- (a) in the case of a ship owned by the Commonwealth—a certificate certifying that the ship is owned by the Commonwealth and that any liability for pollution damage up to the limits of liability applicable in relation to the ship under Article V of the Convention will be met by the Commonwealth; or
 - (b) in the case of a ship owned by a State—a certificate certifying:
 - (i) that the ship is owned by the State; and
 - (ii) if the Minister is satisfied that any liability for pollution damage up to the limits of liability applicable in relation to the ship under Article V of the Convention will be met by the State—that any such liability will be so met by the State.
- (2) Subject to subsection (3), a certificate issued under subsection (1) remains in force for such period as is specified in the certificate.
- (3) If, while a certificate issued under subsection (1) in respect of a ship owned by the Commonwealth or by a State is in force, the ship ceases to be owned by the Commonwealth or by the State, as the case may be, the certificate so issued thereupon ceases to be in force.
- (4) Every country to which the Civil Liability Convention applies shall, in any proceedings brought in a court in Australia to enforce a claim in respect of a liability incurred under the applied
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provisions of the Convention, be deemed to have submitted to the jurisdiction of that court and to have waived any defence based on its status as a sovereign country, but nothing in this subsection shall permit the levy of execution against the property of such a country.

19 Review of decisions

- (1) Application may be made to the Administrative Appeals Tribunal for review of:
 - (a) a decision to refuse to issue an insurance certificate under section 16; or
 - (b) a decision to cancel an insurance certificate under subsection 17(3).
- (2) Where the Minister makes a decision referred to in subsection (1) and gives to a person whose interests are affected by the decision notice in writing of the decision, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for review of the decision by or on behalf of any person whose interests are affected by the decision.
- (3) Any failure to comply with the requirements of subsection (2) in relation to a decision does not affect the validity of the decision.

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) an inspector within the meaning of the *Navigation Act 2012*; 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.

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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; and
 - (d) to which Part 3 of the *Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008* 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 each commit 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 commits 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, each commit 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.

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Part IV—Recovery of expenses of Authority under the Protection of the Sea (Powers of Intervention) Act 1981

20 Expenses etc. incurred by Authority debt due to Commonwealth

- (1) Subject to this section, where the Authority incurs any expense or other liability in, or by reason of, the exercise of the Authority's powers under section 8, 9 or 10 of the *Protection of the Sea (Powers of Intervention) Act 1981* in respect of an incident, the amount of that expense or other liability is:
 - (a) if that expense or other liability was incurred in, or by reason of, the exercise of those powers in relation to a single ship—a debt due to the Commonwealth by the owner of that ship; or
 - (b) if that expense or other liability was incurred in, or by reason of, the exercise of those powers in relation to 2 or more ships—a debt due to the Commonwealth jointly and severally by the owners of those ships.
- (2) Subsection (1) does not apply in relation to the owner of a ship in respect of an incident referred to in that subsection where the owner proves that the incident:
 - (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;
 - (b) was wholly caused by an act or omission done by a third party with intent to cause damage; or
 - (c) was wholly caused by the negligence or other wrongful act of any government, or other authority, responsible for the maintenance of lights or other navigational aids in the exercise of its functions in relation to those lights or aids.
- (3) Subject to subsection (6), where an incident referred to in subsection (1) did not occur as a result of the actual fault or privity of the owner of a ship, the liability of the owner of the ship under

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subsection (1) in respect of the incident shall not 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.

- (4) A debt due to the Commonwealth by a person by virtue of this section may be recovered from the person in any court of competent jurisdiction.
- (5) This section does not apply in relation to pollution damage within the meaning of the Convention.
- (7) In this section:

incident means an occurrence, or a series of occurrences having the same origin.

owner, in relation to a ship in respect of an incident, means the owner of the ship at the time of the incident or, if the incident consists of a series of occurrences having the same origin, at the time of the first of the occurrences.

third party, in relation to a ship, means any person other than:

- (a) the owner of the ship;
- (b) a servant or agent of the owner of the ship; or
- (c) the master, an officer or any other member of the crew of the ship or of any other ship also owned by the owner of the ship.

21 Expenses etc. incurred by Authority charge on ship

The amount:

- (a) that the owner of a ship is liable, or the owners of 2 or more ships are jointly and severally liable, under the applied provisions of the Convention, to pay to the Commonwealth by way of compensation for any expense or other liabilities incurred by the Authority in, or by reason of, the exercise of the Authority's powers under section 8, 9 or 10 of the *Protection of the Sea (Powers of Intervention) Act 1981*; or

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(b) that the owner of a ship is liable, or the owners of 2 or more ships are jointly and severally liable, to pay to the Commonwealth under section 20;
is a charge on that ship, or on each of those ships, as the case may be.

22 Detention of ships

- (1) Subject to subsection (2), where an amount is, by virtue of section 21, a charge on a ship, the ship may be detained by a person authorized in writing by the Minister for the purposes of this section and may be so detained until the amount is paid or security for the payment of the amount is provided to the satisfaction of the Minister.
- (1A) If a ship is detained under this section, the person authorised to detain it may escort it to a port in Australia.
- (1B) While a ship is detained under this section, a person does not have the power of seizure provided for by section 123 of the *Personal Property Securities Act 2009* in relation to the ship.
- (2) Subsection (1) does not apply in relation to a foreign ship unless the ship is in Australian waters or in the exclusive economic zone.
- (3) Where a ship that has been detained under this section goes to sea before it is released from detention, the master and owner of the ship each commit an offence against this subsection punishable, upon conviction:
 - (a) in the case of the master—by a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both;
 - (b) in the case of the owner, if the owner is not a body corporate—by a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both; or
 - (c) in the case of the owner, if the owner is a body corporate—by a fine not exceeding 100 penalty units.
- (3A) An offence under subsection (3) is an offence of strict liability.

Section 22

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(4) In this section:

Australian waters means:

- (a) the territorial sea of Australia; and
- (b) the sea on the landward side of the territorial sea of Australia.

exclusive economic zone means the exclusive economic zone, within the meaning of the *Seas and Submerged Lands Act 1973*, adjacent to the coast of Australia or the coast of an external Territory.

foreign ship means a ship:

- (a) that is not registered in Australia; and
- (b) that does not have Australian nationality.

Section 22A

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

22A Recovery of loss etc. by the Authority

- (1) This section applies if the Authority suffers loss or damage, or incurs costs or expenses, in preventing or mitigating or in attempting to prevent or mitigate any pollution damage, because of:
 - (a) a discharge or disposal in contravention of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*; or
 - (b) action taken by the Authority in performance of its function, under paragraph 6(1)(a) of the *Australian Maritime Safety Authority Act 1990*, to combat pollution in the marine environment caused by a discharge or disposal from a ship, or to combat a threat of pollution in the marine environment caused by a threat of a discharge or disposal from a ship.
- (2) The Authority may recover from:
 - (a) the owner or the master of the ship from which the discharge or disposal occurred, or from which there was the threat of a discharge or disposal; or
 - (b) any person whose act caused the discharge or disposal, or the threat of a discharge or disposal;the amount of the loss, damage, costs and expenses.
- (3) The amount is recoverable as a debt in a court of competent jurisdiction.

Part V—Miscellaneous**23 Prosecution of offences against subsections 15(1), (2) and (3) and 22(3)**

- (1) Subject to subsection (2), an offence against subsection 15(1) or (2) or 22(3) is an indictable offence.
- (2) Notwithstanding that an offence referred to in subsection (1) is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.
- (3) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence referred to in subsection (1), the penalty that the court may impose is a fine not exceeding:
 - (a) in the case of a person, not being a body corporate—20 penalty units; and
 - (b) in the case of a person, being a body corporate—50 penalty units.
- (4) Where, in proceedings for an offence against subsection 15(1), (2) or (3) or 22(3) in respect of any conduct engaged in by a corporation, it is necessary to establish the state of mind of the corporation, it is sufficient to show that a director, servant or agent of the corporation, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.
- (5) Any conduct engaged in on behalf of a corporation:
 - (a) by a director, servant or agent of the corporation within the scope of his or her actual or apparent authority; or
 - (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the corporation, where the giving of such

Section 24

direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent; shall be deemed, for the purposes of a provision of this Act that creates an offence, to have been engaged in by the corporation.

- (6) A reference in subsection (4) to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the intention, opinion, belief or purpose.

24 No time limit for prosecution

A prosecution for an offence against this Act may be brought at any time.

25 Regulations to give effect to Article X of Convention

- (1) The regulations may make provision for and in relation to giving effect to Article X of the Convention including:
- (a) provision for investing the Supreme Courts of the States with federal jurisdiction, and conferring, to the extent that the Constitution permits, jurisdiction on the Supreme Courts of the Territories, with respect to matters arising under regulations made by virtue of this section; and
 - (b) provision fixing fees to be paid in respect of any matters under regulations made by virtue of this section.
- (2) Subsection (1) shall not be taken as limiting the power of a judge or judges of the Supreme Court of a State or Territory to make rules of court with respect to a matter that is not provided for in regulations made by virtue of that subsection.

26 Delegation

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to a person any of his or her powers under this Act, other than this power of delegation.

- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power by the Minister.

27 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule 1—International Convention on Civil Liability for Oil Pollution Damage

Section 3

The States Parties to the present Convention,

CONSCIOUS of the dangers of pollution posed by the worldwide maritime carriage of oil in bulk,

CONVINCED of the need to ensure that adequate compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil from ships,

DESIRING to adopt uniform international rules and procedures for determining questions of liability and providing adequate compensation in such cases,

HAVE AGREED as follows:

ARTICLE I

For the purposes of this Convention:

1. “Ship” means any sea-going vessel and any seaborne craft of any type whatsoever, actually carrying oil in bulk as cargo.
2. “Person” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. “Owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However in the case of a ship owned by a State and operated by a company which in that State is registered as the ship’s operator, “owner” shall mean such company.
4. “State of the ship’s registry” means in relation to registered ships the State of registration of the ship, and in relation to unregistered ships the State whose flag the ship is flying.
5. “Oil” means any persistent oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil and whale oil, whether carried on board a ship as cargo or in the bunkers of such a ship.

6. "Pollution damage" means loss or damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, and includes the cost of preventive measures and further loss or damage caused by preventive measures.
7. "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage.
8. "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage.
9. "Organization" means the Inter-Governmental Maritime Consultative Organization.

ARTICLE II

This Convention shall apply exclusively to pollution damage caused on the territory including the territorial sea of a Contracting State and to preventive measures taken to prevent or minimize such damage.

ARTICLE III

1. Except as provided in paragraphs 2 and 3 of this Article, the owner of a ship at the time of an incident, or where the incident consists of a series of occurrences at the time of the first such occurrence, shall be liable for any pollution damage caused by oil which has escaped or been discharged from the ship as a result of the incident.
2. No liability for pollution damage shall attach to the owner if he proves that the damage:
 - (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character, or
 - (b) was wholly caused by an act or omission done with intent to cause damage by a third party or
 - (c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.
3. If the owner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from his liability to such person.
4. No claim for compensation for pollution damage shall be made against the owner otherwise than in accordance with this Convention. No claim for

pollution damage under this Convention or otherwise may be made against the servants or agents of the owner.

5. Nothing in this Convention shall prejudice any right of recourse of the owner against third parties.

ARTICLE IV

When oil has escaped or has been discharged from two or more ships, and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under Article III, shall be jointly and severally liable for all such damage which is not reasonably separable.

ARTICLE V

1. The owner of a ship shall be entitled to limit his liability under this Convention in respect of any one incident to an aggregate amount of 2,000 francs for each ton of the ship's tonnage. However, this aggregate amount shall not in any event exceed 210 million francs.

2. If the incident occurred as a result of the actual fault or privity of the owner, he shall not be entitled to avail himself of the limitation provided in paragraph 1 of this Article.

3. For the purpose of availing himself of the benefit of limitation provided for in paragraph 1 of this Article the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of any one of the Contracting States in which action is brought under Article IX. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the Contracting State where the fund is constituted, and considered to be adequate by the Court or another competent authority.

4. The fund shall be distributed among the claimants in proportion to the amounts of their established claims.

5. If before the fund is distributed the owner or any of his servants or agents or any person providing him insurance or other financial security has as a result of the incident in question, paid compensation for pollution damage, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

6. The right of subrogation provided for in paragraph 5 of this Article may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for pollution damage which he may have paid but only to the extent that such subrogation is permitted under the applicable national law.

7. Where the owner or any other person establishes that he may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which such person would have enjoyed a right of subrogation under paragraphs 5 or 6 of this Article, had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize pollution damage shall rank equally with other claims against the fund.

9. The franc mentioned in this Article shall be a unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred. The amount mentioned in paragraph 1 of this Article shall be converted into the national currency of the State in which the fund is being constituted on the basis of the official value of that currency by reference to the unit defined above on the date of the constitution of the fund.

10. For the purpose of this Article the ship's tonnage shall be the net tonnage of the ship with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage. In the case of a ship which cannot be measured in accordance with the normal rules of tonnage measurement, the ship's tonnage shall be deemed to be 40 per cent of the weight in tons (of 2240 lbs) of oil which the ship is capable of carrying.

11. The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this Article on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even in the event of the actual fault or privity of the owner but its constitution shall in that case not prejudice the rights of any claimant against the owner.

ARTICLE VI

1. Where the owner, after an incident, has constituted a fund in accordance with Article V, and is entitled to limit his liability,

- (a) no person having a claim for pollution damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim;

- (b) the Court or other competent authority of any Contracting State shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for pollution damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.
2. The foregoing shall, however, only apply if the claimant has access to the Court administering the fund and the fund is actually available in respect of his claim.

ARTICLE VII

1. The owner of a ship registered in a Contracting State and carrying more than 2,000 tons of oil in bulk as cargo shall be required to maintain insurance or other financial security, such as the guarantee of a bank or a certificate delivered by an international compensation fund, in the sums fixed by applying the limits of liability prescribed in Article V, paragraph 1 to cover his liability for pollution damage under this Convention.
2. A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship. It shall be issued or certified by the appropriate authority of the State of the ship's registry after determining that the requirements of paragraph 1 of this Article have been complied with. This certificate shall be in the form of the annexed model and shall contain the following particulars:
- (a) name of ship and port of registration;
 - (b) name and principal place of business of owner;
 - (c) type of security;
 - (d) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established;
 - (e) period of validity of certificate which shall not be longer than the period of validity of the insurance or other security.
3. The certificate shall be in the official language or languages of the issuing State. If the language used is neither English nor French, the text shall include a translation into one of those languages.
4. The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry.
5. An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under

paragraph 2 of this Article, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 4 of this Article, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this Article.

6. The State of registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the certificate.

7. Certificates issued or certified under the authority of a Contracting State shall be accepted by other Contracting States for the purposes of this Convention and shall be regarded by other Contracting States as having the same force as certificates issued or certified by them. A Contracting State may at any time request consultation with the State of a ship's registry should it believe that the insurer or guarantor named in the certificate is not financially capable of meeting the obligations imposed by this Convention.

8. Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the owner's liability for pollution damage. In such case the defendant may, irrespective of the actual fault or privity of the owner, avail himself of the limits of liability prescribed in Article V, paragraph 1. He may further avail himself of the defences (other than the bankruptcy or winding up of the owner) which the owner himself would have been entitled to invoke. Furthermore, the defendant may avail himself of the defence that the pollution damage resulted from the wilful misconduct of the owner himself, but the defendant shall not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the owner against him. The defendant shall in any event have the right to require the owner to be joined in the proceedings.

9. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 of this Article shall be available exclusively for the satisfaction of claims under this Convention.

10. A Contracting State shall not permit a ship under its flag to which this Article applies to trade unless a certificate has been issued under paragraph 2 or 12 of this Article.

11. Subject to the provisions of this Article, each Contracting State shall ensure, under its national legislation, that insurance or other security to the extent specified in paragraph 1 of this Article is in force in respect of any ship, wherever registered, entering or leaving a port in its territory, or arriving at or

leaving an off-shore terminal in its territorial sea, if the ship actually carries more than 2,000 tons of oil in bulk as cargo.

12. If insurance or other financial security is not maintained in respect of a ship owned by a Contracting State, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limits prescribed by Article V, paragraph 1. Such a certificate shall follow as closely as practicable the model prescribed by paragraph 2 of this Article.

ARTICLE VIII

Rights of compensation under this Convention shall be extinguished unless an action is brought thereunder within three years from the date when the damage occurred. However, in no case shall an action be brought after six years from the date of the incident which caused the damage. Where this incident consists of a series of occurrences, the six years' period shall run from the date of the first such occurrence.

ARTICLE IX

1. Where an incident has caused pollution damage in the territory including the territorial sea of one or more Contracting States, or preventive measures have been taken to prevent or minimize pollution damage in such territory including the territorial sea, actions for compensation may only be brought in the Courts of any such Contracting State or States. Reasonable notice of any such action shall be given to the defendant.

2. Each Contracting State shall ensure that its Courts possess the necessary jurisdiction to entertain such actions for compensation.

3. After the fund has been constituted in accordance with Article V the Courts of the State in which the fund is constituted shall be exclusively competent to determine all matters relating to the apportionment and distribution of the fund.

ARTICLE X

1. Any judgment given by a Court with jurisdiction in accordance with Article IX which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any Contracting State, except:

- (a) where the judgement was obtained by fraud; or
- (b) where the defendant was not given reasonable notice and a fair opportunity to present his case.

2. A judgment recognized under paragraph 1 of this Article shall be enforceable in each Contracting State as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.

ARTICLE XI

1. The provisions of this Convention shall not apply to warships or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.

2. With respect to ships owned by a Contracting State and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in Article IX and shall waive all defences based on its status as a sovereign State.

ARTICLE XII

This Convention shall supersede any International Conventions in force or open for signature, ratification or accession at the date on which the Convention is opened for signature, but only to the extent that such Conventions would be in conflict with it; however, nothing in this Article shall affect the obligations of Contracting States to non-Contracting States arising under such International Conventions.

ARTICLE XIII

1. The present Convention shall remain open for signature until 31 December 1970 and shall thereafter remain open for accession.

2. States Members of the United Nations or any of the Specialized Agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice may become Parties to this Convention by:

- (a) signature without reservation as to ratification, acceptance or approval;
- (b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
- (c) accession.

ARTICLE XIV

1. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization.

2. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the present Convention with

respect to all existing Contracting States, or after the completion of all measures required for the entry into force of the amendment with respect to those Contracting States shall be deemed to apply to the Convention as modified by the amendment.

ARTICLE XV

1. The present Convention shall enter into force on the ninetieth day following the date on which Governments of eight States including five States each with not less than 1,000,000 gross tons of tanker tonnage have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization.
2. For each State which subsequently ratifies, accepts, approves or accedes to it the present Convention shall come into force on the ninetieth day after deposit by such State of the appropriate instrument.

ARTICLE XVI

1. The present Convention may be denounced by any Contracting State at any time after the date on which the Convention comes into force for that State.
2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organization.
3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.

ARTICLE XVII

1. The United Nations, where it is the administering authority for a territory, or any Contracting State responsible for the international relations of a territory, shall as soon as possible consult with the appropriate authorities of such territory or take such other measures as may be appropriate, in order to extend the present Convention to that territory and may at any time by notification in writing to the Secretary-General of the Organization declare that the present Convention shall extend to such territory.
2. The present Convention shall, from the date of receipt of the notification or from such other date as may be specified in the notification, extend to the territory named therein.
3. The United Nations, or any Contracting State which has made a declaration under paragraph 1 of this Article may at any time after the date on which the Convention has been so extended to any territory declare by notification in

writing to the Secretary-General of the Organization that the present Convention shall cease to extend to any such territory named in the notification.

4. The present Convention shall cease to extend to any territory mentioned in such notification one year, or such longer period as may be specified therein, after the date of receipt of the notification by the Secretary-General of the Organization.

ARTICLE XVIII

1. A Conference for the purpose of revising or amending the present Convention may be convened by the Organization.

2. The Organization shall convene a Conference of the Contracting States for revising or amending the present Convention at the request of not less than one-third of the Contracting States.

ARTICLE XIX

1. The present Convention shall be deposited with the Secretary-General of the Organization.

2. The Secretary-General of the Organization shall:

- (a) inform all States which have signed or acceded to the Convention of
 - (i) each new signature or deposit of instrument together with the date thereof;
 - (ii) the deposit of any instrument of denunciation of this Convention together with the date of the deposit;
 - (iii) the extension of the present Convention to any territory under paragraph 1 of Article XVII and of the termination of any such extension under the provisions of paragraph 4 of that Article stating in each case the date on which the present Convention has been or will cease to be so extended;
- (b) transmit certified true copies of the present Convention to all Signatory States and to all States which accede to the present Convention.

ARTICLE XX

As soon as the present Convention comes into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

ARTICLE XXI

Schedule 1 International Convention on Civil Liability for Oil Pollution Damage

The present Convention is established in a single copy in the English and French languages, both texts being equally authentic. Official translations in the Russian and Spanish languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed the present Convention.

DONE at Brussels this twenty-ninth day of November 1969.

ANNEX

**CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN
RESPECT OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE**

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1969.

NAME OF SHIP	DISTINCTIVE NUMBER OR LETTERS	PORT OF REGISTRY	NAME AND ADDRESS OF OWNER
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This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1969.

Type of Security

Duration of Security

Name and Address of the Insurer(s) and/or Guarantor(s)

Name

Address

This certificate is valid until

Issued or certified by the Government of

(Full designation of the State)

At On

(Place)(Date)

Signature and Title of issuing or
certifying official.

Explanatory Notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry “Duration of the Security” must stipulate the date on which such security takes effect.

Schedule 2—Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969

Section 3

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention on Civil Liability for Oil Pollution Damage, 1969, and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNIZING that special provisions are necessary in connection with the introduction of corresponding amendments to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,

HAVE AGREED as follows:

Article 1

The Convention which the provisions of this Protocol amend is the International Convention on Civil Liability for Oil Pollution Damage, 1969, hereinafter referred to as the “1969 Liability Convention”. For States Parties to the Protocol of 1976 to the 1969 Liability Convention, such reference shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article 2

Article I of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:
 1. “Ship” means any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo,

provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard.

2. Paragraph 5 is replaced by the following text:
 5. “Oil” means any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship.
3. Paragraph 6 is replaced by the following text:
 6. “Pollution damage” means:
 - (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;
 - (b) the costs of preventive measures and further loss or damage caused by preventive measures.
4. Paragraph 8 is replaced by the following text:
 8. “Incident” means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage.
5. Paragraph 9 is replaced by the following text:
 9. “Organization” means the International Maritime Organization.
6. After paragraph 9 a new paragraph is inserted reading as follows:
 10. “1969 Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage, 1969. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article 3

Article II of the 1969 Liability Convention is replaced by the following text:

This Convention shall apply exclusively:

- (a) to pollution damage caused:
 - (i) in the territory, including the territorial sea, of a Contracting State, and

- (ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baseline from which the breadth of its territorial sea is measured;
- (b) to preventive measures, wherever taken, to prevent or minimize such damage.

Article 4

Article III of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:
 1. Except as provided in paragraphs 2 and 3 of this Article, the owner of a ship at the time of an incident, or, where the incident consists of a series of occurrences, at the time of the first such occurrence, shall be liable for any pollution damage caused by the ship as a result of the incident.
2. Paragraph 4 is replaced by the following text:
 4. No claim for compensation for pollution damage may be made against the owner otherwise than in accordance with this Convention. Subject to paragraph 5 of this Article, no claim for compensation for pollution damage under this Convention or otherwise may be made against:
 - (a) the servants or agents of the owner or the members of the crew;
 - (b) the pilot or any other person who, without being a member of the crew, performs services for the ship;
 - (c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;
 - (d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;
 - (e) any person taking preventive measures;
 - (f) all servants or agents of persons mentioned in subparagraphs (c), (d) and (e);unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

Article 5

Article IV of the 1969 Liability Convention is replaced by the following text:

When an incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under Article III, shall be jointly and severally liable for all such damage which is not reasonably separable.

Article 6

Article V of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:
 1. The owner of a ship shall be entitled to limit his liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:
 - (a) 3 million units of account for a ship not exceeding 5,000 units of tonnage;
 - (b) for a ship with a tonnage in excess thereof, for each additional unit of tonnage, 420 units of account in addition to the amount mentioned in subparagraph (a);provided, however, that this aggregate amount shall not in any event exceed 59.7 million units of account.
2. Paragraph 2 is replaced by the following text:
 2. The owner shall not be entitled to limit his liability under this Convention if it is proved that the pollution damage resulted from his personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
3. Paragraph 3 is replaced by the following text:
 3. For the purpose of availing himself of the benefit of limitation provided for in paragraph 1 of this Article the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of any one of the Contracting States in which action is brought under Article IX or, if no action is brought, with any Court or other competent authority in any one of the Contracting States in which an action can be brought under Article IX. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the Contracting State where the fund is

constituted, and considered to be adequate by the Court or other competent authority.

4. Paragraph 9 is replaced by the following text:

9 (a). The “unit of account” referred to in paragraph 1 of this Article is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is a member of the International Monetary Fund shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is not a member of the International Monetary Fund shall be calculated in a manner determined by that State.

9 (b). Nevertheless, a Contracting State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9 (a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

9 (c). The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the Contracting State as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first three sentences of paragraph 9(a). Contracting States shall communicate to the depositary the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

5. Paragraph 10 is replaced by the following text:

10. For the purpose of this Article the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

6. The second sentence of paragraph 11 is replaced by the following text:
Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limit his liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

Article 7

Article VII of the 1969 Liability Convention is amended as follows:

1. The first two sentences of paragraph 2 are replaced by the following text:
A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a Contracting State has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a Contracting State such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a Contracting State it may be issued or certified by the appropriate authority of any Contracting State.
2. Paragraph 4 is replaced by the following text:
 4. The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a Contracting State, with the authorities of the State issuing or certifying the certificate.
3. The first sentence of paragraph 7 is replaced by the following text:
Certificates issued or certified under the authority of a Contracting State in accordance with paragraph 2 shall be accepted by other Contracting States for the purposes of this Convention and shall be regarded by other Contracting States as having the same force as certificates issued or certified by them even if issued or certified in respect of a ship not registered in a Contracting State.
4. In the second sentence of paragraph 7 the words "with the State of a ship's registry" are replaced by the words "with the issuing or certifying State".
5. The second sentence of paragraph 8 is replaced by the following text:

In such case the defendant may, even if the owner is not entitled to limit his liability according to Article V, paragraph 2, avail himself of the limits of liability prescribed in Article V, paragraph 1.

Article 8

Article IX of the 1969 Liability Convention is amended as follows:
Paragraph 1 is replaced by the following text:

1. Where an incident has caused pollution damage in the territory, including the territorial sea or an area referred to in Article II, of one or more Contracting States or preventive measures have been taken to prevent or minimize pollution damage in such territory including the territorial sea or area, actions for compensation may only be brought in the Courts of any such Contracting State or States. Reasonable notice of any such action shall be given to the defendant.

Article 9

After Article XII of the 1969 Liability Convention two new Articles are inserted as follows:

Article XII bis

Transitional provisions

The following transitional provisions shall apply in the case of a State which at the time of an incident is a Party both to this Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of this Convention, liability under this Convention shall be deemed to be discharged if, and to the extent that, it also arises under the 1969 Liability Convention;
- (b) where an incident has caused pollution damage within the scope of this Convention, and the State is a Party both to this Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of subparagraph (a) of this Article shall arise under this Convention only to the extent that pollution damage remains uncompensated after application of the said 1971 Convention;

- (c) in the application of Article III, paragraph 4, of this Convention the expression “this Compensation” shall be interpreted as referring to this Convention or the 1969 Liability Convention, as appropriate;
- (d) in the application of Article V, paragraph 3, of this Convention the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with subparagraph (a) of this Article.

Article XII ter

Final clauses

The final clauses of this Convention shall be Articles 12 to 18 of the Protocol of 1992 to amend the 1969 Liability Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.

Article 10

The model of a certificate annexed to the 1969 Liability Convention is replaced by the model annexed to this Protocol.

Article 11

1. The 1969 Liability Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.
2. Articles I to XII ter, including the model certificate, of the 1969 Liability Convention as amended by this Protocol shall be known as the International Convention of Civil Liability for Oil Pollution Damage, 1992 (1992 Liability Convention).

FINAL CLAUSES

Article 12

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by all States.
2. Subject to paragraph 4, any State may become a Party to this Protocol by:
 - (a) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
 - (b) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization.
4. Any Contracting State to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the 1971 Fund Convention, may ratify, accept, approve or accede to this Protocol only if it ratifies, accepts, approves or accedes to the Protocol of 1992 to amend that Convention at the same time, unless it denounces the 1971 Fund Convention to take effect on the date when this Protocol enters into force for that State.
5. A State which is a Party to this Protocol but not a Party to the 1969 Liability Convention shall be bound by the provisions of the 1969 Liability Convention as amended by this Protocol in relation to other State Parties hereto, but shall not be bound by the provisions of the 1969 Liability Convention in relation to States Parties thereto.
6. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1969 Liability Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

Article 13

Entry into force

1. This Protocol shall enter into force twelve months following the date on which ten States including four States each with not less than one million units of gross tanker tonnage have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization.
2. However, any Contracting State to the 1971 Fund Convention may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol, declare that such instrument shall be deemed not to be effective for the purposes of this Article until the end of the six-month period in Article 31 of the Protocol of 1992 to amend the 1971 Fund Convention. A State which is not a Contracting State to the 1971 Fund Convention but which deposits an instrument of ratification, acceptance, approval or accession in respect of the Protocol of 1992 to amend the 1971 Fund Convention may also make a declaration in accordance with this paragraph at the same time.
3. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to

the Secretary-General of the Organization. Any such withdrawal shall take effect on the date the notification is received, provided that such State shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.

4. For any State which ratifies, accepts, approves or accedes to it after the conditions in paragraph 1 for entry into force have been met, this Protocol shall enter into force twelve months following the date of deposit by such State of the appropriate instrument.

Article 14

Revision and amendment

1. A Conference for the purposes of revising or amending the 1992 Liability Convention may be convened by the Organization.
2. The Organization shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Liability Convention at the request of not less than one third of the Contracting States.

Article 15

Amendments of limitation amounts

1. Upon the request of at least one quarter of the Contracting States any proposal to amend the limits of liability laid down in Article V, paragraph 1, of the 1969 Liability Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.
3. All Contracting States to the 1969 Liability Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.
5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of

damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits in Article V, paragraph 1, of the 1969 Liability Convention as amended by this Protocol and those in Article 4, paragraph 4, of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992.

6 (a). No amendment of the limits of liability under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.

(b). No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol increased by 6 per cent per year calculated on a compound basis from 15 January 1993.

(c). No limit may be increased so as to exceed an amount which corresponds to the limits laid down in the 1969 Liability Convention as amended by this Protocol multiplied by 3.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organization that they do not accept the amendment in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.

9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 16, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted by the Legal Committee but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State

becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article 16

Denunciation

1. This Protocol may be denounced by any Party at any time after the date which it enters into force for that Party.
2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organization.
3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.
4. As between the Parties to this Protocol, denunciation by any of them of the 1969 Liability Convention in accordance with Article XVI thereof shall not be construed in any way as a denunciation of the 1969 Liability Convention as amended by this Protocol.
5. Denunciation of the Protocol of 1992 to amend the 1971 Fund Convention by a State which remains a Party to the 1971 Fund Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1971 Fund Convention takes effect according to Article 34 of that Protocol.

Article 17

Depositary

1. This Protocol and any amendments accepted under Article 15 shall be deposited with the Secretary-General of the Organization.
2. The Secretary-General of the Organization shall:
 - (a) inform all States which have signed or acceded to this Protocol of:
 - (i) each new signature or deposit of an instrument together with the date thereof;
 - (ii) each declaration and notification under Article 13 and each declaration and communication under Article V, paragraph 9, of the 1992 Liability Convention;
 - (iii) the date of entry into force of this Protocol;
 - (iv) any proposal to amend limits of liability which has been made in accordance with Article 15, paragraph 1;

- (v) any amendment which has been adopted in accordance with Article 15, paragraph 4;
 - (vi) any amendment deemed to have been accepted under Article 15, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;
 - (vii) the deposit of any instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;
 - (viii) any denunciation deemed to have been made under Article 16, paragraph 5;
 - (ix) any communication called for by any Article of this Protocol;
- (b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to this Protocol.
3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 18

Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON, this twenty-seventh day of November one thousand nine hundred and ninety-two.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

ANNEX

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Name of ship	Distinctive number or letters	Port of registry	Name and address of owner
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This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Type of Security

Duration of Security

Name and Address of the Insurer(s) and/or Guarantor(s)

Name

Address

This certificate is valid until

Issued or certified by the Government of

(Full designation of the State)

At On

(Place)(Date)

Signature and Title of issuing or certifying

Official

Explanatory notes:

1. If desirable, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of Security" must stipulate the date on which such security takes effect.

Schedule 3—Resolution LEG.1(82)

Note: See section 3.

RESOLUTION LEG.1(82)

adopted on 18 October 2000

AMENDMENTS OF THE LIMITATION AMOUNTS IN THE PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE, 1969

THE LEGAL COMMITTEE at its eighty-second session:

RECALLING Article 33(b) of the Convention on the International Maritime Organization (hereinafter referred to as the “IMO Convention”) concerning the functions of the Committee,

MINDFUL of Article 36 of the IMO Convention concerning rules governing the procedures to be followed when exercising the functions conferred on it by or under any international convention or instrument,

RECALLING FURTHER article 15 of the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (hereinafter referred to as the “1992 CLC Protocol”) concerning the procedures for amending the limitation amounts set out in the article 6(1) of the 1992 CLC Protocol,

HAVING CONSIDERED amendments to the limitation amounts proposed and circulated in accordance with the provisions of article 15(1) and (2) of the 1992 CLC Protocol,

1. ADOPTS, in accordance with article 15(4) of the 1992 CLC Protocol, amendments to the limitation amounts set out in article 6(1) of the 1992 CLC Protocol, as set out in the Annex to this resolution;
2. DETERMINES, in accordance with article 15(7) of the 1992 CLC Protocol, that these amendments shall be deemed to have been accepted on

1 May 2002 unless, prior to that date, not less than one quarter of the States that were Contracting States on the date of the adoption of these amendments (being 18 October 2000) have communicated to the Organization that they do not accept these amendments;

3. FURTHER DETERMINES that, in accordance with article 15(8) of the 1992 CLC Protocol, these amendments, deemed to have been accepted in accordance with paragraph 2 above, shall enter into force on 1 November 2003;

4. REQUESTS the Secretary-General, in accordance with articles 15(7) and 17(2)(v) of the 1992 CLC Protocol, to transmit certified copies of the present resolution and the amendments contained in the Annex thereto to all States which have signed or acceded to the 1992 CLC Protocol; and

5. FURTHER REQUESTS the Secretary-General to transmit copies of the present resolution and its Annex to the Members of the Organization which have not signed or acceded to the 1992 CLC Protocol.

ANNEX

**AMENDMENTS OF THE LIMITATION AMOUNTS IN THE
PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL
CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION
DAMAGE, 1969**

Article 6(1) of the 1992 CLC Protocol is amended as follows:

the reference to “3 million units of account” shall read “4,510,000 units of account”;

the reference to “420 units of account” shall read “631 units of account”; and

the reference to “59.7 million units of account” shall read “89,770,000 units of account”.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous (prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
ed = editorial change	rep = repealed
exp = expires/expired or ceases/ceased to have effect	rs = repealed and substituted
F = Federal Register of Legislation	s = section(s)/subsection(s)
gaz = gazette	Sch = Schedule(s)
LA = <i>Legislation Act 2003</i>	Sdiv = Subdivision(s)
LIA = <i>Legislative Instruments Act 2003</i>	SLI = Select Legislative Instrument
(md) = misdescribed amendment can be given effect	SR = Statutory Rules
(md not incorp) = misdescribed amendment cannot be given effect	Sub-Ch = Sub-Chapter(s)
mod = modified/modification	SubPt = Subpart(s)
No. = Number(s)	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Protection of the Sea (Civil Liability) Act 1981	31, 1981	14 Apr 1981	5 Feb 1984 (s 2 and gaz 1984, No S31)	
Statute Law (Miscellaneous Provisions) Act (No. 1) 1983	39, 1983	20 June 1983	s. 3: 18 July 1983 (a)	s. 7(1)
Statute Law (Miscellaneous Provisions) Act (No. 1) 1984	72, 1984	25 June 1984	s. 3: 23 July 1984 (b)	s. 5(1)
Protection of the Sea Legislation Amendment Act 1986	167, 1986	18 Dec 1986	Part IV (ss. 35–40): 9 Oct 1996 (<i>see Gazette</i> 1996, No. S376) (c)	s. 2 (am. by 95, 1995, s. 3, Part J (item 1))
as amended by				
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s. 3: 9 Oct 1996 (<i>see Gazette</i> 1996, No. S376) (d)	s. 5(1)
Transport Legislation Amendment Act 1995	95, 1995	27 July 1995	s. 3 (Part J (items 1–4)): Royal Assent (e)	—
Transport and Communications Legislation Amendment Act 1994	64, 1994	30 May 1994	s. 3(1): (f)	—
Transport Legislation Amendment Act 1995	95, 1995	27 July 1995	Sch 3 (Pt 2): 27 July 1995 (s 2(1))	—
Protection of the Sea (Civil Liability) Amendment Act 2000	122, 2000	5 Oct 2000	ss. 1–3: Royal Assent Schedule 1 (Parts 3, 4): 6 Oct 2000 Remainder: 6 Apr 2001	—

Protection of the Sea (Civil Liability) Act 1981

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Compilation No. 20

Compilation date: 20/03/2024

Registered: 04/04/2024

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001	143, 2001	1 Oct 2001	Sch 3 (items 104–108): 2 Oct 2001 (s 2)	s. 4
Maritime Legislation Amendment Act 2003	7, 2003	19 Mar 2003	Sch 1 (items 1–6): 1 Nov 2003 (s 2(1) item 2) Sch 1 (items 7–9): 20 Mar 2003 (s 2(1) item 3)	Sch 1 (item 2)
Statute Law Revision Act 2008	73, 2008	3 July 2008	Schedule 1 (item 37): (<i>h</i>)	—
Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) (Consequential Amendments) Act 2008	77, 2008	12 July 2008	Sch 1 (item 5): 16 June 2009 (s 2(1) item 2)	—
Personal Property Securities (Consequential Amendments) Act 2009	131, 2009	14 Dec 2009	Sch 3 (item 11): 30 Jan 2012 (s 2(1) item 1)	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 1 (item 100): 22 Mar 2011 (s 2(1) item 2)	—
Navigation (Consequential Amendments) Act 2012	129, 2012	13 Sept 2012	Sch 2 (items 44–49): 1 July 2013 (s 2(1) item 2)	—
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 3 (item 30): 10 Dec 2015 (s 2(1) item 7)	—
Maritime Legislation Amendment Act 2015	176, 2015	11 Dec 2015	Sch 1 (items 4–6, 12): 8 Jan 2016 (s 2(1) item 2)	Sch 1 (item 12)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 250, 410); 10 Mar 2016 (s 2(1) item 6)	—
Statute Law Amendment (Prescribed Forms and Other Updates) Act 2023	74, 2023	20 Sept 2023	Sch 1 (items 114–118); 20 Mar 2024 (s 2(1) item 2)	Sch 1 (item 118)

- (a) The *Protection of the Sea (Civil Liability) Act 1981* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1983*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (b) The *Protection of the Sea (Civil Liability) Act 1981* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1984*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (c) The *Protection of the Sea (Civil Liability) Act 1981* was amended by Part IV (ss. 35–40) only of the *Protection of the Sea Legislation Amendment Act 1986*, subsections 2(4) and (5) of which provide as follows:
- (4) The remaining provisions of this Act shall come into operation on such respective days as are fixed by Proclamation.
- (5) The day fixed under subsection (4) for the coming into operation of a provision of Part IV, shall not be a day earlier than the day on which the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 comes into force for Australia.
- (d) The *Protection of the Sea Legislation Amendment Act 1986* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(26) of which provides as follows:
- (26) The amendments of paragraph 20(2)(b) of, and Schedules 1, 2 and 8 to, the *Protection of the Sea Legislation Amendment Act 1986* made by this Act shall respectively come into operation or be deemed to have come into operation, as the case requires, on the commencement of

Endnotes

Endnote 3—Legislation history

subsection 20(2), subsection 15(1), subsection 15(2) and section 40 of the first-mentioned Act.

Section 40 commenced on 9 October 1996 (*see Gazette* 1996, No. S376).

(e) The *Protection of the Sea Legislation Amendment Act 1986* was amended by the *Transport Legislation Amendment Act 1995*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(f) The *Protection of the Sea (Civil Liability) Act 1981* was amended by the *Transport and Communications Legislation Amendment Act 1994*, subsections 2(1) and (3) of which provide as follows:

(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(3) Subject to subsection (4), the amendments of subsections 22(2) and (4) of the *Protection of the Sea (Civil Liability) Act 1981* and the amendments of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* commence:

(a) if this Act receives the Royal Assent before the day on which the *Maritime Legislation Amendment Act 1994* comes into operation—on the day on which that Act comes into operation; or

(b) otherwise—on the day on which this Act receives the Royal Assent.

The date fixed in pursuance of subsection 2(3) was 1 August 1994 (*see Gazette* 1994, No. S289).

(h) Subsection 2(1) (item 27) of the *Statute Law Revision Act 2008* provides as follows:

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
27. Schedule 1, item 37	Immediately after the commencement of item 3 of Schedule 1 to the <i>Protection of the Sea (Civil Liability) Amendment Act 2000</i> .	6 April 2001

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part I	
s 3.....	am No 167, 1986 (as am by No 95, 1995); No 122, 2000; No 7, 2003; No 129, 2012 ed C20
s 4.....	rs No 145, 2015
s 6A.....	ad No 143, 2001
Part II	
s 7.....	rs No 129, 2012
s 8.....	am No 167, 1986
s 9.....	am No 167, 1986
s 10.....	am No 95, 1995
Part III	
s 13.....	am No 95, 1995
s 15.....	am No 95, 1995; No 122, 2000; No 143, 2001; No 129, 2012; No 176, 2015; No 4, 2016
s 16.....	am No 72, 1984; No 95, 1995; No 74, 2023
s 17.....	am No 95, 1995; No 122, 2000
s 19.....	rs No 39, 1983
Part IIIA	
Part IIIA	ad No 122, 2000
s 19A.....	ad No 122, 2000 am No 129, 2012
s 19B.....	ad No 122, 2000 am No 77, 2008
s 19C.....	ad No 122, 2000 am No 4, 2016
Part IV	
Part IV heading.....	rs No 73, 2008
s 20.....	am No 95, 1995; No 122, 2000; No 129, 2012

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 21.....	am No 95, 1995; No 122, 2000
s 22.....	am No 64, 1994; No 122, 2000; No 143, 2001; No 131, 2009; No 4, 2016
Part IVA	
Part IVA heading.....	rs No 122, 2000
Part IVA.....	ad No 64, 1994
s 22A.....	ad No 64, 1994 am No 122, 2000
Part V	
s 23.....	am No 167, 1986; No 122, 2000
s 26.....	am No 95, 1995
Schedule 1	
Schedule 1.....	am No 5, 2011
Schedule 2	
Schedule 2.....	rs No 167, 1986 (as am by No 141, 1987; No 95, 1995)
Schedule 3	
Schedule 3.....	ad No 7, 2003

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Subsection 3(1)

Kind of editorial change

Reordering of definitions

Details of editorial change

This compilation was editorially changed to move the definition of *the 1992 Protocol* in subsection 3(1) to the correct alphabetical position.