



# **Protection of the Sea (Powers of Intervention) Act 1981**

**Act No. 33 of 1981 as amended**

This compilation was prepared on 14 February 2012  
taking into account amendments up to Act No. 46 of 2011

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# **An Act authorizing the Commonwealth to take measures for the purpose of protecting the sea from pollution by oil and other noxious substances discharged from ships, and for related purposes**

## **1 Short title** [see Note 1]

This Act may be cited as the *Protection of the Sea (Powers of Intervention) Act 1981*.

## **2 Commencement** [see Note 1]

- (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 Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties comes into force for Australia.

## **3 Interpretation**

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

***aircraft*** means any machine or craft that can derive support in the atmosphere from the reactions of the air.

***Australia*** includes the external Territories.

***Australian coastal sea*** means:

- (a) the territorial sea of Australia; and
- (b) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or the Northern Territory.

***Australian ship*** means:

- (a) a ship registered in Australia; or
- (b) an unregistered ship having Australian nationality.

***Authority*** means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*.

***cargo*** includes ballast and ship's stores and fuel.

***civil proceeding*** includes a civil action.

***constitutional corporation*** means a corporation to which paragraph 51(xx) of the Constitution applies.

***controller*** of a tangible asset means:

- (a) in the case of land, seabed or premises—the occupier of the land, seabed or premises; or
- (b) in the case of a facility, structure or installation—the person in charge of the facility, structure or installation; or
- (c) in the case of goods—the person in control or possession of the goods.

***Convention*** means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (a copy of the English text of which is set forth in Schedule 1), as amended from time to time.

***direction under this Act*** means a direction under paragraph 8(2)(b), 9(2)(b) or 10(3)(b) or a further direction under section 15.

***electronic communication*** has the same meaning as in the *Electronic Transactions Act 1999*.

***engage in conduct*** has the same meaning as in the *Criminal Code*.

***goods*** has the same meaning as in the *Competition and Consumer Act 2010*.

***high seas*** means all parts of the sea to which Part VII of the UN Convention on the Law of the Sea applies.

Note: Article 86 of the UN Convention on the Law of the Sea provides that the provisions of Part VII of the Convention apply to “all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State”.

***internal waters*** means waters of the sea within the limits of a State or the Northern Territory. For this purpose, *sea* includes any waters within the ebb and flow of the tide.

***master***, in relation to a ship, means the person having command or charge of the ship.

**owner**, in relation to a ship that is operated by a person (not being the owner of the ship) who has whole possession and control of the ship, means the operator of the ship.

**Protocol** means the Protocol Relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973 (being the Protocol a copy of whose English text is set out in Schedule 2), as affected by the following resolutions of the Marine Environment Protection Committee of the International Maritime Organization revising the list of substances to be annexed to the Protocol:

- (a) the resolution adopted on 4 July 1991 (being the resolution a copy of whose English text is set out in Schedule 3);
  - (b) the resolution adopted on 10 July 1996 (being the resolution a copy of whose English text is set out in Schedule 4);
- and as amended from time to time.

**services** has the same meaning as in the *Competition and Consumer Act 2010*, and includes services provided by an employee.

**ship**:

- (a) when used in relation to a matter arising under, or relating to, section 8 or 9—has the same meaning as in the Convention; or
- (b) when used in relation to a matter arising under, or relating to, section 10—has the same meaning as in the *Navigation Act 1912*.

**supply** has the same meaning as in the *Competition and Consumer Act 2010*.

**tangible asset** means:

- (a) land or seabed; or
- (b) premises; or
- (c) a facility; or
- (d) a structure; or
- (e) an installation; or
- (f) any of the following goods:
  - (i) a vessel;
  - (ii) an aircraft;

- (iii) a vehicle;
- (iv) an item of equipment or machinery;
- (v) a tool;
- (vi) any other article.

***UN Convention on the Law of the Sea*** means the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982.

Note: The text of the Convention is set out in Australian Treaty Series 1994 No. 31. In 2006, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)).

- (2) It is hereby declared to be the intention of the Parliament that the provisions of this Act that relate to the Protocol shall have full force and effect whether or not the Protocol has entered into force.

#### **4 Act to bind Crown**

- (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island.
- (2) Nothing in this Act renders the Commonwealth, the Authority or a State or Territory liable to be prosecuted for an offence.
- (3) Subsection (2) does not affect any liability of an employee or agent of the Commonwealth, the Authority or a State or Territory to be prosecuted for an offence.

#### **5 Relationship to other laws**

##### *State/Territory laws*

- (1) This Act is not intended to exclude or limit the operation of a law of a State or Territory to the extent that the law is capable of operating concurrently with this Act.
- (1A) A direction under this Act prevails over a direction (however described) under a law of a State or Territory to the extent of any inconsistency.
- (1B) Subsection (1A) does not, by implication, limit:
  - (a) the application of section 109 of the Constitution to a law of a State; or



- (b) the application of the corresponding principle to a law of a Territory.

*Commonwealth laws*

- (1C) A direction under this Act prevails over a direction (however described) under another Act to the extent of any inconsistency, unless the other Act:
  - (a) is enacted after the commencement of this subsection; and
  - (b) refers specifically to a direction under this Act.
- (2) Nothing in the *Historic Shipwrecks Act 1976* affects the operation of this Act.

## **6 Operation of Act**

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

## **7 Delegation**

The Minister may, by writing signed by him or her, delegate to a person any of his or her powers under this Act.

Note: See sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901*.

## **8 Taking of measures to prevent pollution of sea by oil—maritime casualty on the high seas**

- (1) Where the Authority is satisfied that, following upon a maritime casualty on the high seas or acts related to such a casualty, there is grave and imminent danger to the coastline of Australia, or to the related interests of Australia, from pollution or threat of pollution of the sea by oil which may reasonably be expected to result in major harmful consequences, the Authority may take such measures, whether on the high seas or elsewhere, as it considers necessary to prevent, mitigate or eliminate the danger.
- (2) Without limiting the generality of subsection (1), the measures that the Authority may take under this section in relation to the ship, or any of the ships, involved in the maritime casualty include:
  - (a) the taking of action, whether or not directions have been issued under paragraph (b) in relation to the ship:

- (i) to move the ship or part of the ship to another place;
  - (ii) to remove cargo from the ship;
  - (iii) to salvage the ship, part of the ship or any of the ship's cargo;
  - (iv) to sink or destroy the ship or part of the ship;
  - (v) to sink, destroy or discharge into the sea any of the ship's cargo; or
  - (vi) to take over control of the ship or part of the ship; or
  - (b) the issuing of directions of the kind authorized by section 11:
    - (i) to the owner of the ship;
    - (ii) to the master of the ship; or
    - (iii) to any salvor in possession of the ship; or
    - (iv) to any other person.
- (2A) The Authority must not exercise its powers under subparagraph (2)(a)(iv) without the approval of the Minister.
- (2B) Without limiting subparagraph (2)(b)(iv), a direction under that subparagraph may be issued to:
- (a) the owner of any other ship; or
  - (b) the master of any other ship; or
  - (c) the owner of a tangible asset; or
  - (d) the controller of a tangible asset; or
  - (e) the supplier of goods; or
  - (f) a person to whom goods are being, or are proposed to be, supplied; or
  - (g) the supplier of a service; or
  - (h) a person to whom a service is being, or is proposed to be, supplied.
- (2C) The Authority must not issue a direction under subparagraph (2)(b)(iv) to the owner or master of another ship unless the other ship is:
- (a) in internal waters; or
  - (b) in the Australian coastal sea; or
  - (c) in the exclusive economic zone of Australia; or
  - (d) an Australian ship.
- (3) This section does not authorize the taking of measures against a warship or other ship owned or operated by a foreign State and

used, for the time being, only on government non-commercial service.

- (4) The Minister and the Authority shall, in and in relation to the exercise of powers under this section, act in accordance with Articles III and V of the Convention. For this purpose, those Articles are taken to extend to the taking of measures under this section elsewhere than on the high seas.
- (5) This section shall not be construed as limiting or otherwise affecting any right or power that the Commonwealth may have, whether under international law, under this Act or otherwise, apart from this section.
- (6) An expression (other than high seas) that is used in this section (other than paragraph (2B)(c), (d), (e), (f), (g) or (h) or (2C)(a), (b), (c) or (d)) and in the Convention (whether or not a particular meaning is assigned to it by the Convention) has, in this section, the same meaning as in the Convention.
- (7) A direction under this Act is taken to relate to a ship involved in a maritime casualty referred to in subsection (1) even if the direction is issued under subparagraph (2)(b)(iv).

## **9 Taking of measures to prevent pollution of sea by substances other than oil—maritime casualty on the high seas**

- (1) Where the Authority is satisfied that, following upon a maritime casualty on the high seas or acts related to such a casualty, there is grave and imminent danger to the coastline of Australia, or to the related interests of Australia, from pollution or threat of pollution of the sea by substances other than oil which may reasonably be expected to result in major harmful consequences, the Authority may take such measures, whether on the high seas or elsewhere, as it considers necessary to prevent, mitigate or eliminate the danger.
- (2) Without limiting the generality of subsection (1), the measures that the Authority may take under this section in relation to the ship, or any of the ships, involved in the maritime casualty include:
  - (a) the taking of action, whether or not directions have been issued under paragraph (b) in relation to the ship:
    - (i) to move the ship or part of the ship to another place;
    - (ii) to remove cargo from the ship;

- (iii) to salvage the ship, part of the ship or any of the ship's cargo;
  - (iv) to sink or destroy the ship or part of the ship;
  - (v) to sink, destroy or discharge into the sea any of the ship's cargo; or
  - (vi) to take over control of the ship or part of the ship; or
  - (b) the issuing of directions of the kind authorized by section 11:
    - (i) to the owner of the ship;
    - (ii) to the master of the ship; or
    - (iii) to any salvor in possession of the ship; or
    - (iv) to any other person.
- (2A) The Authority must not exercise its powers under subparagraph (2)(a)(iv) without the approval of the Minister.
- (2B) Without limiting subparagraph (2)(b)(iv), a direction under that subparagraph may be issued to:
- (a) the owner of any other ship; or
  - (b) the master of any other ship; or
  - (c) the owner of a tangible asset; or
  - (d) the controller of a tangible asset; or
  - (e) the supplier of goods; or
  - (f) a person to whom goods are being, or are proposed to be, supplied; or
  - (g) the supplier of a service; or
  - (h) a person to whom a service is being, or is proposed to be, supplied.
- (2C) The Authority must not issue a direction under subparagraph (2)(b)(iv) to the owner or master of another ship unless the other ship is:
- (a) in internal waters; or
  - (b) in the Australian coastal sea; or
  - (c) in the exclusive economic zone of Australia; or
  - (d) an Australian ship.
- (3) This section does not authorize the taking of measures against a warship or other ship owned or operated by a foreign State and used, for the time being, only on government non-commercial service.

- (4) The Minister and the Authority shall, in and in relation to the exercise of powers under this section, act in accordance with Articles III and V of the Convention as applying by virtue of Article II of the Protocol or, if the Protocol has not entered into force, in accordance with those Articles of the Convention as they would apply by virtue of that Article of the Protocol if the Protocol had entered into force. For this purpose, those Articles of the Convention as applying by virtue of Article II of the Protocol are taken to extend to the taking of measures under this section elsewhere than on the high seas.
- (5) This section shall not be construed as limiting or otherwise affecting any right or power that the Commonwealth may have, whether under international law, under this Act or otherwise, apart from this section.
- (6) Where an expression (other than high seas) is used in this section (other than paragraph (2B)(c), (d), (e), (f), (g) or (h) or (2C)(a), (b), (c) or (d)):
  - (a) if the expression is also used in the Protocol (whether or not a particular meaning is assigned to it by the Protocol)—the expression has, in this section, the same meaning as in the Protocol; or
  - (b) subject to paragraph (a), if the expression is also used in the provisions of the Convention referred to in paragraph 1 of Article II of the Protocol (whether or not a particular meaning is assigned to it by the Convention)—the expression has, in this section, the same meaning as in the Convention.
- (7) A direction under this Act is taken to relate to a ship involved in a maritime casualty referred to in subsection (1) even if the direction is issued under subparagraph (2)(b)(iv).

## **10 Taking of measures to prevent pollution of sea by oil or noxious substances—general powers**

- (1) This section (other than subsections (3B) and (3C)) applies in relation to:
  - (a) any ship in internal waters, where:
    - (i) the ship is a ship in relation to which Australia has relevant international rights or obligations, whether

- arising under an international convention, treaty or otherwise; or
- (ii) the ship is engaged in trade or commerce between Australia and a place or places outside Australia; or
  - (iii) the ship is engaged in trade or commerce between 2 places outside Australia; or
  - (iv) the ship is engaged in trade or commerce among the States; or
  - (v) the ship is engaged in trade or commerce within a Territory, between a State and a Territory or between 2 Territories; or
  - (vi) the ship is engaged in operations incidental to trade or commerce referred to in subparagraph (ii), (iii), (iv) or (v); or
  - (vii) the ship is owned, operated, managed or controlled by a constitutional corporation; or
  - (viii) the ship is demised or sub-demised to, or in the exclusive possession of, a constitutional corporation; or
  - (ix) the beneficial interest in the ship is vested in a constitutional corporation; and
- (b) any ship in the Australian coastal sea; and
  - (ba) any ship in the exclusive economic zone of Australia; and
  - (c) any Australian ship on the high seas.
- (2) Where oil or a noxious substance is escaping, or has escaped, from a ship in relation to which this section applies, or the Authority is satisfied that oil or a noxious substance is likely to escape from such a ship, the Authority may, subject to subsection (4), take such measures as it considers necessary:
- (a) to prevent, or reduce the extent of, the pollution or likely pollution, by the oil or noxious substance, of any Australian waters, any part of the Australian coast or any Australian reef;
  - (b) to prevent damage, or reduce the extent, or likely extent, of damage, to any of the related interests of Australia by reason of the pollution, or likely pollution, of the sea by the oil or noxious substance;
  - (c) to protect any Australian waters, any part of the Australian coast or any Australian reef from pollution or likely pollution by the oil or noxious substance;

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- (d) to protect any other related interests of Australia from damage by reason of the pollution, or likely pollution, of the sea by the oil or noxious substance; or
  - (e) in a case where the oil or noxious substance has escaped—to remove or reduce the effects, or likely effects, of pollution or likely pollution, by the oil or noxious substance, on any Australian waters, any part of the Australian coast, any Australian reef or any of the related interests of Australia.
- (3) Without limiting the generality of subsection (2), the measures that the Authority may take under this section in relation to the ship include:
- (a) the taking of action, whether or not directions have been issued under paragraph (b) in relation to the ship:
    - (i) to move the ship or part of the ship to another place;
    - (ii) to remove cargo from the ship;
    - (iii) to salvage the ship, part of the ship or any of the ship's cargo;
    - (iv) to sink or destroy the ship or part of the ship;
    - (v) to sink, destroy or discharge into the sea any of the ship's cargo; or
    - (vi) to take over control of the ship or part of the ship; or
  - (b) the issuing of directions of the kind authorized by section 11:
    - (i) to the owner of the ship;
    - (ii) to the master of the ship; or
    - (iii) to any salvor in possession of the ship; or
    - (iv) to any other person.
- (3A) The Authority must not exercise its powers under subparagraph (3)(a)(iv) without the approval of the Minister.
- (3B) Without limiting subparagraph (3)(b)(iv), a direction under that subparagraph may be issued to:
- (a) the owner of any other ship; or
  - (b) the master of any other ship; or
  - (c) the owner of a tangible asset; or
  - (d) the controller of a tangible asset; or
  - (e) the supplier of goods; or
  - (f) a person to whom goods are being, or are proposed to be, supplied; or

- (g) the supplier of a service; or
  - (h) a person to whom a service is being, or is proposed to be, supplied.
- (3C) The Authority must not issue a direction under subparagraph (3)(b)(iv) to the owner or master of another ship unless the other ship is:
- (a) in internal waters; or
  - (b) in the Australian coastal sea; or
  - (c) in the exclusive economic zone of Australia; or
  - (d) an Australian ship.
- (4) The Minister and the Authority shall, in the exercise of powers under this section, act in accordance with the following principles:
- (a) measures taken under this section shall be in proportion to the damage, whether actual or threatened, in relation to which the measures are taken;
  - (b) in determining whether measures are in proportion to the damage in relation to which the measures are taken, regard shall be had to:
    - (i) the extent and probability of imminent damage if the measures are not taken;
    - (ii) the likelihood of those measures being effective; and
    - (iii) the extent of the damage which may be caused by the measures;
  - (c) measures taken under this section shall not exceed those reasonably necessary to achieve the end sought to be achieved by the measures and shall cease as soon as that end has been achieved;
  - (d) measures taken under this section shall not unnecessarily interfere with the rights and interests of other countries, and of any persons, likely to be affected by the measures;
  - (e) in taking measures under this section, any risk to human life shall, as far as possible, be avoided.
- (5) Where oil or a noxious substance is being, has been or is likely to be, discharged, intentionally or otherwise, from a ship, the discharge or likely discharge of the oil or noxious substance from the ship shall, for the purposes of this section, be deemed to be an escape or likely escape of the oil or noxious substance, as the case may be, from the ship.



(6) A direction under this Act is taken to relate to a ship referred to in subsection (2) even if the direction was issued under subparagraph (3)(b)(iv).

(8) In this section:

***Australian coast*** includes the coast and the shores of any island forming part of Australia and the shores of any internal waters.

***Australian reef*** means a reef in Australian waters or a reef outside Australian waters but forming part of the continental shelf of Australia.

***Australian ship*** means:

- (a) a ship registered in Australia; or
- (b) an unregistered ship having Australian nationality.

***Australian waters*** means the Australian coastal sea and internal waters.

***noxious substance*** means a substance other than oil.

***oil*** means crude oil, fuel oil, diesel oil and lubricating oil.

***related interests of Australia***, in relation to an escape or likely escape of oil or a noxious substance from a ship, means the interests of Australia directly affected or threatened by the escape or likely escape and, without limiting the generality of the foregoing, includes any of the following interests of Australia:

- (a) maritime coastal, port or estuarine activities, including fisheries activities, in or connected with Australia, being activities constituting an essential means of livelihood of persons;
- (b) the tourist attractions of any part of Australia; and
- (c) the health of the coastal population of, and the well-being of, any area of Australia, including the conservation of living marine resources and of wildlife in or connected with any area of Australia.

***sea*** includes any waters within the ebb and flow of the tide.

***substance other than oil*** has the same meaning as in the Protocol.

**11 Directions under Act may require taking of action etc.**

- (1) A direction under this Act issued in relation to a ship (the *first ship*) covered by either of the following paragraphs:
- (aa) a ship involved in a maritime casualty referred to in subsection 8(1) or 9(1);
  - (ab) a ship referred to in subsection 10(2);
- may require the doing of any act or thing with respect to the first ship or the first ship's cargo, or prohibit the doing of any such act or thing and, without limiting the generality of the foregoing, may:
- (a) require or prohibit the movement of the first ship or part of the first ship, its movement to a place or area or its removal from a place or area; or
  - (b) require or prohibit the removal of cargo from the first ship; or
  - (c) require or prohibit the taking of salvage measures in relation to the first ship, part of the first ship or any of the first ship's cargo; or
  - (d) require or prohibit the sinking or destruction of the first ship or part of the first ship; or
  - (e) require or prohibit the sinking, destruction or discharging into the sea of any of the first ship's cargo; or
  - (f) require or prohibit the handing over of control of the first ship or part of the first ship; or
  - (g) require another ship to be made available for purposes in connection with unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or
  - (h) require another ship to be made available for purposes in connection with repairing, piloting, towing, berthing or securing the first ship; or
  - (i) require:
    - (i) the movement of another ship; or
    - (ii) the removal of another ship from a place or area; where the movement or removal facilitates unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or
  - (j) require:
    - (i) the movement of another ship; or
    - (ii) the removal of another ship from a place or area;

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where the movement or removal facilitates repairing, piloting, towing, berthing or securing the first ship; or

(k) prohibit:

(i) the movement of another ship; or

(ii) the removal of another ship from a place or area; where the movement or removal is likely to impede or interfere with unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or

(l) prohibit:

(i) the movement of another ship; or

(ii) the removal of another ship from a place or area; where the movement or removal is likely to impede or interfere with repairing, piloting, towing, berthing or securing the first ship; or

(m) require a tangible asset (other than a ship) to be made available for purposes in connection with unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or

(n) require a tangible asset (other than a ship) to be made available for purposes in connection with repairing, piloting, towing, berthing or securing the first ship; or

(o) require:

(i) the movement of a tangible asset (other than a ship); or

(ii) the removal of a tangible asset (other than a ship) from a place or area;

where the movement or removal facilitates unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or

(p) require:

(i) the movement of a tangible asset (other than a ship); or

(ii) the removal of a tangible asset (other than a ship) from a place or area;

where the movement or removal facilitates repairing, piloting, towing, berthing or securing the first ship; or

(q) prohibit:

(i) the movement of a tangible asset (other than a ship); or

(ii) the removal of a tangible asset (other than a ship) from a place or area;

where the movement or removal is likely to impede or interfere with unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or

(r) prohibit:

- (i) the movement of a tangible asset (other than a ship); or
- (ii) the removal of a tangible asset (other than a ship) from a place or area;

where the movement or removal is likely to impede or interfere with repairing, piloting, towing, berthing or securing the first ship; or

(s) require a specified place to be treated as a place of refuge for the first ship; or

(t) require the supply of services by way of, or in connection with:

- (i) unloading, receiving, treating, storing or disposing of any of the first ship's cargo; or
- (ii) repairing, piloting, towing, berthing or securing the first ship; or

(u) require the temporary release of contractual obligations, where the fulfilment of those obligations is likely to impede or interfere with the carrying out of any other direction under this Act that relates to the first ship.

(1A) The Authority must not issue a direction under paragraph (1)(d) without the approval of the Minister.

(2) Without limiting the generality of subsection (1), a direction under this Act may:

- (a) require that an act or thing be done in accordance with the direction, or with the approval, or in accordance with the instructions, of a specified person; or
- (b) prohibit the doing of an act or thing except in accordance with the direction, or with the approval, or in accordance with the instructions, of a specified person.

## **12 Addressing of directions under Act etc.**

A direction under this Act:

- (a) in the case of a direction to the owner of a ship—may be addressed to the owner of the ship without specifying the name of the owner or any of the owners of the ship; or

- (b) in the case of a direction to the master of a ship—may be addressed to the master of the ship without specifying him or her by name; or
- (c) in the case of a direction to the salvor in possession of a ship—may be addressed to the salvor in possession of the ship without specifying him or her by name; or
- (d) in the case of a direction to the owner of a tangible asset (other than a ship)—may be addressed to the owner of the tangible asset without specifying the name of the owner, or any of the owners, of the tangible asset; or
- (e) in the case of a direction to the controller of a tangible asset (other than a ship)—may be addressed to the controller of the tangible asset without specifying the name of the controller, or any of the controllers, of the tangible asset.

### **13 Issuing of more than one direction in relation to a ship**

Nothing in this Act shall be taken to prevent the issuing (whether to the same person or to different persons) of more than one direction under this Act, or under a provision of this Act, in relation to a ship.

### **14 Directions under Act to ship or tangible asset with more than one owner etc.**

- (1) Where there is more than one owner of a ship or more than one salvor in possession of a ship, a direction under this Act issued to the owner of the ship or to the salvor in possession of the ship has effect, for the purposes of this Act, as a direction issued to each of the owners of the ship or each salvor in possession of the ship, as the case requires.
- (2) If there is more than one owner of a tangible asset (other than a ship), a direction under this Act issued to the owner of the tangible asset has effect, for the purposes of this Act, as a direction issued to each of the owners of the tangible asset.
- (3) If there is more than one controller of a tangible asset (other than a ship), a direction under this Act issued to the controller of the tangible asset has effect, for the purposes of this Act, as a direction issued to each of the controllers of the tangible asset.

## **15 Revocation and variation of directions under Act**

Where the Authority has issued a direction under this Act to a person or to 2 or more persons, the Authority may, by a further direction issued to that person or those persons, revoke or vary the earlier direction.

## **16 Directions under Act to be in writing**

A direction under this Act shall be in writing.

## **17 Service of directions under Act**

*Service of directions on the owner, master or salvor of a ship*

- (1) A direction under this Act to any of the following persons:
  - (a) the owner of a ship;
  - (b) the master of a ship;
  - (c) the salvor in possession of a ship;is to be served on the person in accordance with subsections (2) to (7) and, for the purposes of section 19, is taken to have been issued to the person at the time when it is served on the person in accordance with subsections (2) to (7).
- (2) Service of a direction under this Act on the owner or the owners of a ship may be effected:
  - (a) by serving it personally on the owner or on all or any of the owners, as the case may be, of the ship or, if an owner who is to be served is a body corporate, on a director, secretary or other officer of the body corporate;
  - (b) by serving it personally on any agent of the ship or, if an agent who is to be served is a body corporate, on a director, secretary or other officer of the body corporate; or
  - (c) by serving it on the master of the ship.
- (3) Where there is more than one owner of a ship, a direction under this Act that is served on any of the owners of the ship shall be deemed, for the purposes of this Act, to be served on all those owners.
- (4) Service of a direction under this Act on the master of a ship may be effected by serving it personally on the master of the ship or, if for

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any reason (including the absence of the master from the ship) it is not practicable to serve the notice on the master, by delivering it to any person on board the ship who appears to be an officer of the ship.

- (5) Service of a direction under this Act on a salvor in possession of a ship may be effected by serving it personally on the person who appears to be in charge of salvage operations.
- (6) Where it is not reasonably practicable to serve a direction under this Act in accordance with the preceding provisions of this section, the direction shall be deemed to have been served on the person or persons to whom it is issued if the contents are transmitted to the ship concerned by any means and receipt of the transmission is acknowledged by a person on board the ship.
- (7) A person authorized in writing by the Authority for the purposes of this section may go on board a ship for the purpose of serving a direction under this Act on a person on board the ship.

*Service of directions on persons other than the owner, master or salvor of a ship*

- (8) A direction under this Act to a person other than:
  - (a) the owner of a ship; or
  - (b) the master of a ship; or
  - (c) the salvor in possession of a ship;is to be served on the person in accordance with subsection (9) or (10) and, for the purposes of section 19, is taken to have been issued to the person:
  - (d) if paragraph (9)(d) applies—at the time when it is served on the person in accordance with section 28A of the *Acts Interpretation Act 1901*; or
  - (e) if paragraph (9)(e) applies—at the time of receipt of the electronic communication (see section 14 of the *Electronic Transactions Act 1999*); or
  - (f) if paragraph (10)(d) applies—at the time when it is served on the person in accordance with that paragraph; or
  - (g) if paragraph (10)(e) applies—at the time of receipt of the electronic communication (see section 14 of the *Electronic Transactions Act 1999*).

Note: See also section 29 of the *Acts Interpretation Act 1901*.

- (9) Service of a direction under this Act on a person other than:
- (a) the owner of a ship; or
  - (b) the master of a ship; or
  - (c) the salvor in possession of a ship;
- may, in a case where the person is an individual or a body corporate, be effected:
- (d) in accordance with section 28A of the *Acts Interpretation Act 1901*; or
  - (e) by sending the contents of the direction to the person by means of an electronic communication.
- (10) Service of a direction under this Act on a person other than:
- (a) the owner of a ship; or
  - (b) the master of a ship; or
  - (c) the salvor in possession of a ship;
- may, in a case where the person is a body politic, be effected:
- (d) by leaving it at, or sending it by pre-paid post to, an office of a department or agency of the body politic; or
  - (e) by sending the contents of the direction to the person, or to a representative of the person, by means of an electronic communication.

## **17A Liability for acts and omissions**

### *Minister*

- (1) Criminal or civil proceedings do not lie against:
- (a) the Minister; or
  - (b) a delegate of the Minister;
- because of an act done or omitted to be done in the exercise of any power conferred on the Minister by or under this Act.

### *Authority*

- (2) Criminal or civil proceedings do not lie against:
- (a) the Authority; or
  - (b) a member of the Authority; or
  - (c) a member of the staff of the Authority; or
  - (d) a delegate of the Authority;



because of an act done or omitted to be done in the exercise of any power conferred on the Authority by or under this Act.

*Persons specified in directions under this Act*

- (3) If a person was specified in a direction under this Act as mentioned in paragraph 11(2)(a) or (b), criminal or civil proceedings do not lie against the person because of an act done or omitted to be done in the exercise of any power conferred on the person by or under the direction.

*Persons subject to directions under this Act*

- (4) If a direction under this Act is or was issued to a person, criminal or civil proceedings do not lie against the person because of an act done or omitted to be done in compliance with the direction.
- (5) Subsection (4) does not apply to a proceeding under the *Protection of the Sea (Civil Liability) Act 1981*.
- (5A) Subsection (4) does not apply to:
- (a) a proceeding under the *Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008*; or
  - (b) a proceeding on a maritime claim referred to in paragraph 4(3)(ba) of the *Admiralty Act 1988* (about claims relating to bunker oil pollution damage).
- (6) Subsection (4) does not apply to the extent to which it is inconsistent with an international agreement to which Australia is a party.

*Compensation for acquisition of property*

- (7) This section does not apply to a proceeding under section 22.

*Varied direction*

- (8) A reference in this section to a **direction under this Act** must, in the case of a direction that has been varied by a further direction issued under section 15, be construed as a reference to the direction as so varied by that further direction.

*Application*

- (9) Subsections (1), (2), (3) and (4) do not apply to an act done, or omitted to be done, before the commencement of this section.

**17B Expenses of compliance with certain directions under Act may be recovered from owner of ship**

- (1) If:
- (a) a person is or was subject to a direction under this Act; and
  - (b) the direction relates to:
    - (i) a ship involved in a maritime casualty referred to in subsection 8(1) or 9(1); or
    - (ii) a ship referred to in subsection 10(2); and
  - (c) the person is not the owner, or one of the owners, of the ship; and
  - (d) the person incurs a reasonable expense in complying with the direction; and
  - (e) the direction requires the supply of a service to the owner of the ship; and
  - (f) apart from this section, the owner of the ship is not liable to pay the amount of the expense to the person;
- the amount of the expense is a debt due to the person:
- (g) if there is only one owner of the ship—by the owner of the ship; or
  - (h) if there are 2 or more owners of the ship—jointly and severally by the owners of the ship.
- (2) A debt due under subsection (1) may be recovered in:
- (a) the Federal Court of Australia; or
  - (b) any other court of competent jurisdiction.
- (3) Subsection (1) does not apply to the extent to which it is inconsistent with an international agreement to which Australia is a party.

*Varied direction*

- (4) A reference in this section to a ***direction under this Act*** must, in the case of a direction that has been varied by a further direction

issued under section 15, be construed as a reference to the direction as so varied by that further direction.

*Application*

- (5) Subsection (1) does not apply to a direction issued before the commencement of this section.

**18 Change in ownership or master of ship, or change in ownership of tangible asset**

- (1) Where a direction under this Act issued to the owner of a ship is served in accordance with subsections 17(2) to (7) and a change in the ownership of the ship subsequently occurs while the direction is in force, the person who was the owner at the time the notice was served:
- (a) shall forthwith notify any new owner of the ship of the existence and contents of the direction; and
  - (b) shall forthwith notify the Authority, in accordance with the regulations, of the change in the ownership of the ship and furnish the Authority with such particulars of the change as are prescribed for the purposes of this subsection.
- (2) Where a direction under this Act issued to the master of a ship is served in accordance with subsections 17(2) to (7) and the person who is the master of the ship subsequently ceases to be the master of the ship while the direction is in force, the person who ceases to be the master of the ship:
- (a) shall forthwith notify the new master (if any) of the existence and contents of the direction; and
  - (b) shall forthwith notify the Authority, in accordance with the regulations, of his or her ceasing to be the master of the ship and furnish the Authority with such particulars as are prescribed for the purposes of this subsection.
- (3) If a direction under this Act issued to the owner of a tangible asset (other than a ship) is served in accordance with subsection 17(9) or (10) and a change in the ownership of the tangible asset subsequently occurs while the direction is in force, the person who was the owner at the time the notice was served:
- (a) must immediately notify any new owner of the tangible asset of the existence and contents of the direction; and

- (b) must immediately notify the Authority, in accordance with the regulations, of the change in the ownership of the tangible asset and give the Authority such particulars of the change as are prescribed for the purposes of this subsection.
- (4) A person commits an offence if:
- (a) a person is subject to a requirement under subsection (1), (2) or (3); and
  - (b) the person engages in conduct; and
  - (c) the person's conduct breaches the requirement.

Penalty: 50 penalty units.

### **19 Contravention of direction under Act etc.**

- (1) A person commits an offence if:
- (a) a person is subject to a direction under this Act; and
  - (b) the person engages in conduct; and
  - (c) the person's conduct breaches the direction.

Penalty: 2,000 penalty units or imprisonment for 5 years, or both.

- (4) It is a defence to a prosecution for an offence against subsection (1) if it is proved:
- (a) that the breach of the direction resulted from the need to save life at sea; or
  - (b) that compliance with the direction was not possible; or
  - (c) if the direction requires an act or thing to be done before a particular time—that compliance with the direction was not possible before that time and the direction was complied with as soon as possible after that time.
- (5) A reference in this section to a direction under this Act shall, in the case of a direction that has been varied by a further direction issued under section 15, be construed as a reference to the direction as so varied by that further direction.

### **20 No time limit for prosecution**

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

## 21 Evidence

Where in proceedings for an offence against a provision of this Act it is established:

- (a) that a direction under this Act has been served on the owner of a ship by serving it on a person or body corporate as the agent of the ship; and
- (b) that the person or body corporate had, at any time before the direction was so served, acted as an agent of the ship;

the person or body corporate shall be deemed, unless the contrary is proved, to have been an agent of the ship at the time when the direction was served.

Note: The defendant bears a legal burden in relation to the matter in this section (see section 13.4 of the *Criminal Code*).

## 22 Compensation for acquisition of property

- (1) If the operation of this Act would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in:
  - (a) the Federal Court of Australia; or
  - (b) any other court of competent jurisdiction;for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this section:

*acquisition of property* has the same meaning as in paragraph 51(xxxi) of the Constitution.

*just terms* has the same meaning as in paragraph 51(xxxi) of the Constitution.

## 23 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 and, in particular,

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exempting, either absolutely or subject to conditions, a prescribed ship, or ships included in a prescribed class of ships, from all or any of the provisions of this Act.

## **Schedule 1—International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties**

Subsection 3(1)

The States Parties to the present Convention,

CONSCIOUS of the need to protect the interests of their peoples against the grave consequences of a maritime casualty resulting in danger of oil pollution of sea and coastlines,

CONVINCED that under these circumstances measures of an exceptional character to protect such interests might be necessary on the high seas and that these measures do not affect the principle of freedom of the high seas,

HAVE AGREED as follows:

### ARTICLE I

1. Parties to the present Convention may take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution of the sea by oil, following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.
2. However, no measures shall be taken under the present Convention against any warship or other ship owned or operated by a State and used, for the time being, only on government non-commercial service.

### ARTICLE II

For the purposes of the present Convention:

1. “maritime casualty” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo;
2. “ship” means:
  - (a) any sea-going vessel of any type whatsoever, and

- (b) any floating craft, with the exception of an installation or device engaged in the exploration and exploitation of the resources of the sea-bed and the ocean floor and the subsoil thereof;
- 3. “oil” means crude oil, fuel oil, diesel oil and lubricating oil;
- 4. “related interests” means the interests of a coastal State directly affected or threatened by the maritime casualty, such as:
  - (a) maritime coastal, port or estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
  - (b) tourist attractions of the area concerned;
  - (c) the health of the coastal population and the well-being of the area concerned, including conservation of living marine resources and of wildlife;
- 5. “Organization” means the Inter-Governmental Maritime Consultative Organization.

#### ARTICLE III

When a coastal State is exercising the right to take measures in accordance with Article I, the following provisions shall apply:

- (a) before taking any measures, a coastal State shall proceed to consultations with other States affected by the maritime casualty, particularly with the flag State or States;
- (b) the coastal State shall notify without delay the proposed measures to any persons physical or corporate known to the coastal State, or made known to it during the consultations, to have interests which can reasonably be expected to be affected by those measures. The coastal State shall take into account any views they may submit;
- (c) before any measure is taken, the coastal State may proceed to a consultation with independent experts, whose names shall be chosen from a list maintained by the Organization;
- (d) in cases of extreme urgency requiring measures to be taken immediately, the coastal State may take measures rendered necessary by the urgency of the situation, without prior notification or consultation or without continuing consultations already begun;
- (e) a coastal State shall, before taking such measures and during their course, use its best endeavours to avoid any risk to human life, and to afford persons in distress any assistance of which they may stand in



- need, and in appropriate cases to facilitate the repatriation of ships' crews, and to raise no obstacle thereto;
- (f) measures which have been taken in application of Article I shall be notified without delay to the States and to the known physical or corporate persons concerned, as well as to the Secretary-General of the Organization.

#### ARTICLE IV

1. Under the supervision of the Organization, there shall be set up and maintained the list of experts contemplated by Article III of the present Convention, and the Organization shall make necessary and appropriate regulations in connexion therewith, including the determination of the required qualifications.
2. Nominations to the list may be made by Member States of the Organization and by Parties to this Convention. The experts shall be paid on the basis of services rendered by the States utilizing those services.

#### ARTICLE V

1. Measures taken by the coastal State in accordance with Article I shall be proportionate to the damage actual or threatened to it.
2. Such measures shall not go beyond what is reasonably necessary to achieve the end mentioned in Article I and shall cease as soon as that end has been achieved; they shall not unnecessarily interfere with the rights and interests of the flag State, third States and of any persons, physical or corporate, concerned.
3. In considering whether the measures are proportionate to the damage, account shall be taken of:
  - (a) the extent and probability of imminent damage if those measures are not taken; and
  - (b) the likelihood of those measures being effective; and
  - (c) the extent of the damage which may be caused by such measures.

#### ARTICLE VI

Any Party which has taken measures in contravention of the provisions of the present Convention causing damage to others, shall be obliged to pay compensation to the extent of the damage caused by measures which exceed those reasonably necessary to achieve the end mentioned in Article I.

ARTICLE VII

Except as specifically provided, nothing in the present Convention shall prejudice any otherwise applicable right, duty, privilege or immunity or deprive any of the Parties or any interested physical or corporate person of any remedy otherwise applicable.

ARTICLE VIII

1. Any controversy between the Parties as to whether measures taken under Article I were in contravention of the provisions of the present Convention, to whether compensation is obliged to be paid under Article VI, and to the amount of such compensation shall, if settlement by negotiation between the Parties involved or between the Party which took the measures and the physical or corporate claimants has not been possible, and if the Parties do not otherwise agree, be submitted upon request of any of the Parties concerned to conciliation or, if conciliation does not succeed, to arbitration, as set out in the Annex to the present Convention.

2. The Party which took the measures shall not be entitled to refuse a request for conciliation or arbitration under provisions of the preceding paragraph solely on the grounds that any remedies under municipal law in its own courts have not been exhausted.

ARTICLE IX

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 X

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

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

#### ARTICLE XI

1. The present Convention shall enter into force on the ninetieth day following the date on which Governments of fifteen States 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 XII

1. The present Convention may be denounced by any Party 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 XIII

1. The United Nations where it is the administering authority for a territory, or any State Party to the present Convention responsible for the international relations of a territory, shall as soon as possible consult with the appropriate authorities of such territories 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 Party 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.
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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 XIV

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 States Parties to the present Convention for revising or amending the present Convention at the request of not less than one-third of the Parties.

#### ARTICLE XV

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 XIII 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 XVI

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 XVII

The present Convention is established in a single copy in the English and French languages, both texts being equally authentic. Official translations in the

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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

CHAPTER I

CONCILIATION

ARTICLE 1

Provided the Parties concerned do not decide otherwise, the procedure for conciliation shall be in accordance with the rules set out in this Chapter.

ARTICLE 2

1. A Conciliation Commission shall be established upon the request of one Party addressed to another in application of Article VIII of the Convention.
2. The request for conciliation submitted by a Party shall consist of a statement of the case together with any supporting documents.
3. If a procedure has been initiated between two Parties, any other Party the nationals or property of which have been affected by the same measures, or which is a coastal State having taken similar measures, may join in the conciliation procedure by giving written notice to the Parties which have originally initiated the procedure unless either of the latter Parties object to such joinder.

ARTICLE 3

1. The Conciliation Commission shall be composed of three members: one nominated by the coastal State which took the measures, one nominated by the State the nationals or property of which have been affected by those measures and a third, who shall preside over the Commission and shall be nominated by agreement between the two original members.
  2. The Conciliators shall be selected from a list previously drawn up in accordance with the procedure set out in Article 4 below.
  3. If within a period of 60 days from the date of receipt of the request for conciliation, the Party to which such request is made has not given notice to the other Party to the controversy of the nomination of the Conciliator for whose selection it is responsible, or if, within a period of 30 days from the date of
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nomination of the second of the members of the Commission to be designated by the Parties, the first two Conciliators have not been able to designate by common agreement the Chairmen of the Commission, the Secretary-General of the Organization shall upon request of either Party and within a period of 30 days, proceed to the required nomination. The members of the Commission thus nominated shall be selected from the list prescribed in the preceding paragraph.

4. In no case shall the Chairman of the Commission be or have been a national of one of the original Parties to the procedure, whatever the method of his nomination.

#### ARTICLE 4

1. The list prescribed in Article 3 above shall consist of qualified persons designated by the Parties and shall be kept up to date by the Organization. Each Party may designate for inclusion on the list four persons, who shall not necessarily be its nationals. The nominations shall be for periods of six years each and shall be renewable.

2. In the case of the decease or resignation of a person whose name appears on the list, the Party which nominated such person shall be permitted to nominate a replacement for the remainder of the term of office.

#### ARTICLE 5

1. Provided the Parties do not agree otherwise, the Conciliation Commission shall establish its own procedures, which shall in all cases permit a fair hearing. As regards examination, the Commission, unless it unanimously decides otherwise, shall conform with the provisions of Chapter III of The Hague Convention for the Peaceful Settlement of International Disputes of 18 October 1907.

2. The Parties shall be represented before the Conciliation Commission by agents whose duty shall be to act as intermediaries between the Parties and the Commission. Each of the Parties may seek also the assistance of advisers and experts nominated by it for this purpose and may request the hearing of all persons whose evidence the Party considers useful.

3. The Commission shall have the right to request explanations from agents, advisers and experts of the Parties as well as from any persons whom, with the consent of their Governments, it may deem useful to call.

#### ARTICLE 6

Provided the Parties do not agree otherwise, decisions of the Conciliation Commission shall be taken by a majority vote and the Commission shall not

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pronounce on the substance of the controversy unless all its members are present.

#### ARTICLE 7

The Parties shall facilitate the work of the Conciliation Commission and in particular, in accordance with their legislation, and using all means at their disposal:

- (a) provide the Commission with the necessary documents and information;
- (b) enable the Commission to enter their territory, to hear witnesses or experts, and to visit the scene.

#### ARTICLE 8

The task of the Conciliation Commission will be to clarify the matters under dispute, to assemble for this purpose all relevant information by means of examination or other means, and to endeavour to reconcile the Parties. After examining the case, the Commission shall communicate to the Parties a recommendation which appears to the Commission to be appropriate to the matter and shall fix a period of not more than 90 days within which the Parties are called upon to state whether or not they accept the recommendation.

#### ARTICLE 9

The recommendation shall be accompanied by a statement of reasons. If the recommendation does not represent in whole or in part the unanimous opinion of the Commission, any Conciliator shall be entitled to deliver a separate opinion.

#### ARTICLE 10

A conciliation shall be deemed unsuccessful if, 90 days after the Parties have been notified of the recommendation, either Party shall not have notified the other Party of its acceptance of the recommendation. Conciliation shall likewise be deemed unsuccessful if the Commission shall not have been established within the period prescribed in the third paragraph of Article 3 above, or provided the Parties have not agreed otherwise, if the Commission shall not have issued its recommendation within one year from the date on which the Chairman of the Commission was nominated.

#### ARTICLE 11

1. Each member of the Commission shall receive remuneration for his work, such remuneration to be fixed by agreement between the Parties which shall each contribute an equal proportion.

2. Contributions for miscellaneous expenditure incurred by the work of the Commission shall be apportioned in the same manner.

ARTICLE 12

The parties to the controversy may at any time during the conciliation procedure decide in agreement to have recourse to a different procedure for settlement of disputes.

CHAPTER II  
ARBITRATION

ARTICLE 13

1. Arbitration procedure, unless the Parties decide otherwise, shall be in accordance with the rules set out in this Chapter.
2. Where conciliation is unsuccessful, a request for arbitration may only be made within a period of 180 days following the failure of conciliation.

ARTICLE 14

The Arbitration Tribunal shall consist of three members: one Arbitrator nominated by the coastal State which took the measures, one Arbitrator nominated by the State the nationals or property of which have been affected by those measures, and another Arbitrator who shall be nominated by agreement between the two first-named, and shall act as its Chairman.

ARTICLE 15

1. If, at the end of a period of 60 days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organization upon request of either Party shall within a further period of 60 days proceed to such nomination, selecting from a list of qualified persons previously drawn up in accordance with the provisions of Article 4 above. This list shall be separate from the list of experts prescribed in Article IV of the Convention and from the list of Conciliators prescribed in Article 4 of the present Annex; the name of the same person may, however, appear both on the list of Conciliators and on the list of Arbitrators. A person who has acted as Conciliator in a dispute may not, however, be chosen to act as Arbitrator in the same matter.
2. If, within a period of 60 days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly inform the Secretary-General of the Organization who shall nominate the Chairman of the



Tribunal within a period of 60 days, selecting him from the list prescribed in paragraph 1 of the present Article.

3. The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organization to make the nomination in the form and conditions prescribed in the preceding paragraph.

4. The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party or Parties.

5. In the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of 60 days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In the case of decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article 14 above, or in the absence of agreement between the members of the Tribunal within a period of 60 days of the decease or default, according to the provisions of the present Article.

#### ARTICLE 16

If a procedure has been initiated between two Parties, any other Party, the nationals or property of which have been affected by the same measures or which is a coastal State having taken similar measures, may join in the arbitration procedure by giving written notice to the Parties which have originally initiated the procedure unless either of the latter Parties object to such joinder.

#### ARTICLE 17

Any Arbitration Tribunal established under the provisions of the present Annex shall decide its own rules of procedure.

#### ARTICLE 18

1. Decisions of the Tribunal both as to its procedure and its place of meeting and as to any controversy laid before it, shall be taken by majority vote of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible shall not constitute an

impediment to the Tribunal reaching a decision. In cases of equal voting, the Chairman shall cast the deciding vote.

2. The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal:
  - (a) provide the Tribunal with the necessary documents and information;
  - (b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.
3. Absence or default of one Party shall not constitute an impediment to the procedure.

#### ARTICLE 19

1. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal. The Parties shall immediately comply with the award.
2. Any controversy which may arise between the Parties as regards interpretation and execution of the award may be submitted by either Party for judgment to the Tribunal which made the award, or, if it is not available, to another Tribunal constituted for this purpose in the same manner as the original Tribunal.

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## **Schedule 2—Protocol relating to Intervention on the High Seas in Cases of Pollution by substances other than Oil, 1973**

Subsection 3(1)

THE PARTIES TO THE PRESENT PROTOCOL,

BEING PARTIES to the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, done at Brussels on 29 November 1969,

TAKING INTO ACCOUNT the Resolution on International Co-operation Concerning Pollutants other than Oil adopted by the International Legal Conference on Marine Pollution Damage, 1969,

FURTHER TAKING INTO ACCOUNT that pursuant to the Resolution, the Inter-Governmental Maritime Consultative Organization has intensified its work, in collaboration with all interested international organizations, on all aspects of pollution by substances other than oil,

HAVE AGREED as follows:

### ARTICLE I

1. Parties to the present Protocol may take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution by substances other than oil following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.
2. “Substances other than oil” as referred to in paragraph 1 shall be:
  - (a) those substances enumerated in a list which shall be established by an appropriate body designated by the Organization and which shall be annexed to the present Protocol, and
  - (b) those other substances which are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.
3. Whenever an intervening Party takes action with regard to a substance referred to in paragraph 2 (b) above that Party shall have the burden of establishing that the substance, under the circumstances present at the time of

the intervention, could reasonably pose a grave and imminent danger analogous to that posed by any of the substances enumerated in the list referred to in paragraph 2 (a) above.

#### ARTICLE II

1. The provisions of paragraph 2 of Article I and of Articles II to VIII of the Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, and the Annex thereto as they relate to oil, shall be applicable with regard to the substances referred to in Article I of the present Protocol.
2. For the purpose of the present Protocol the list of experts referred to in Articles III (c) and IV of the Convention shall be extended to include experts qualified to give advice in relation to substances other than oil. Nominations to the list may be made by Member States of the Organization and by Parties to the present Protocol.

#### ARTICLE III

1. The list referred to in paragraph 2 (a) of Article I shall be maintained by the appropriate body designated by the Organization.
  2. Any amendment to the list proposed by a Party to the present Protocol shall be submitted to the Organization and circulated by it to all Members of the Organization and all Parties to the present Protocol at least three months prior to its consideration by the appropriate body.
  3. Parties to the present Protocol whether or not Members of the Organization shall be entitled to participate in the proceedings of the appropriate body.
  4. Amendments shall be adopted by a two-thirds majority of only the Parties to the present Protocol present and voting.
  5. If adopted in accordance with paragraph 4 above, the amendment shall be communicated by the Organization to all Parties to the present Protocol for acceptance.
  6. The amendment shall be deemed to have been accepted at the end of a period of six months after it has been communicated, unless within that period an objection to the amendment has been communicated to the Organization by not less than one-third of the Parties to the present Protocol.
  7. An amendment deemed to have been accepted in accordance with paragraph 6 above shall enter into force three months after its acceptance for all Parties to the present Protocol, with the exception of those which before that date have made a declaration of non-acceptance of the said amendment.
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#### ARTICLE IV

1. The present Protocol shall be open for signature by the States which have signed the Convention referred to in Article II or acceded thereto, and by any State invited to be represented at the International Conference on Marine Pollution 1973. The Protocol shall remain open for signature from 15 January 1974 until 31 December 1974 at the Headquarters of the Organization.
2. Subject to paragraph 4 of this Article, the present Protocol shall be subject to ratification, acceptance or approval by the States which have signed it.
3. Subject to paragraph 4, this Protocol shall be open for accession by States which did not sign it.
4. The present Protocol may be ratified, accepted, approved or acceded to only by States which have ratified, accepted, approved or acceded to the Convention referred to in Article II.

#### ARTICLE V

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 Protocol with respect to all existing Parties or after the completion of all measures required for the entry into force of the amendment with respect to all existing Parties shall be deemed to apply to the Protocol as modified by the amendment.

#### ARTICLE VI

1. The present Protocol shall enter into force on the ninetieth day following the date on which fifteen States have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization, provided however that the present Protocol shall not enter into force before the Convention referred to in Article II has entered into force.
2. For each State which subsequently ratifies, accepts, approves or accedes to it, the present Protocol shall enter into force on the ninetieth day after the deposit by such State of the appropriate instrument.

#### ARTICLE VII

1. The present Protocol may be denounced by any Party at any time after the date on which the Protocol enters into force for that Party.
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2. Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.
3. 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.
4. Denunciation of the Convention referred to in Article II by a Party shall be deemed to be a denunciation of the present Protocol by that Party. Such denunciation shall take effect on the same day as the denunciation of the Convention takes effect in accordance with paragraph 3 of Article XII of that Convention.

#### ARTICLE VIII

1. A conference for the purpose of revising or amending the present Protocol may be convened by the Organization.
2. The Organization shall convene a conference of Parties to the present Protocol for the purpose of revising or amending it at the request of not less than one-third of the Parties.

#### ARTICLE IX

1. The present Protocol 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 the present Protocol or acceded thereto of:
    - (i) each new signature or deposit of an instrument together with the date thereof;
    - (ii) the date of entry into force of the present Protocol;
    - (iii) the deposit of any instrument of denunciation of the present Protocol together with the date on which the denunciation takes effect;
    - (iv) any amendments to the present Protocol or its Annex and any objection or declaration of non-acceptance of the said amendment;
  - (b) transmit certified true copies of the present Protocol to all States which have signed the present Protocol or acceded thereto.

#### ARTICLE X

As soon as the present Protocol enters into force, a certified true copy thereof 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 XI

The present Protocol is established in a single original in the English, French, Russian and Spanish languages, all four texts being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized for that purpose have signed the present Protocol.

DONE AT LONDON this second day of November one thousand nine hundred and seventy-three.

#### ANNEX

LIST OF SUBSTANCES ESTABLISHED BY THE MARINE  
ENVIRONMENT PROTECTION COMMITTEE OF THE  
ORGANIZATION IN ACCORDANCE WITH PARAGRAPH 2 (a) OF  
ARTICLE I

1. Oil (when carried in bulk)
  - Asphalt Solutions*
  - Blending Stocks
  - Roofers Flux
  - Straight Run Residue
  
  - Oil
  - Clarified
  - Mixtures containing Crude Oil
  - Road Oil
  - Aromatic Oil (excluding vegetable oil)
  - Blending Stocks
  - Mineral Oil
  - Penetrating Oil
  - Spindle Oil
  - Turbine Oil

Distillates

Straight Run  
Flashed Feed Stocks

Gas Oil

Cracked

Gasoline Blending Stocks

Alkylates—fuel  
Reformats  
Polymer—fuel

Gasolines

Casinghead (natural)  
Automotive  
Aviation  
Straight Run

Jet Fuels

JP-1 (Kerosene)  
JP-3  
JP-4  
JP-5 (Kerosene, heavy)  
Turbo Fuel  
Mineral Spirit

Naphtha

Solvent  
Petroleum  
Heartcut Distillate Oil

2. Noxious Substances

Acetic anhydride  
Acetone  
Acetone cyanohydrin  
Acrolein  
Acrylonitrile  
Aldrin  
Allyl isothiocyanate  
Aluminium phosphide  
Ammonia (28% aqueous)  
Ammonium phosphate



Amyl mercaptan  
Aniline  
Aniline hydrochloride  
Antimony compounds  
Arsenic compounds  
Atrazine  
Azinphos methyl (Guthion)  
Barium azide  
Barium cyanide  
Barium oxide  
Benzene  
Benzenehexachloride isomers (Lindane)  
Benzidine  
Beryllium powder  
Bromine  
Bromobenzyl cyanide  
n-Butyl acrylate  
Butyric acid  
Cacodylic acid  
Cadmium compounds  
Carbaryl (Sevin)  
Carbon disulphide  
Carbontetrachloride  
Chlorodane  
Chloroacetone  
Chloroacetophenone  
Chlorodinitrobenzene  
Chloroform  
Chlorohydrins (crude)  
Chloropicrin  
Chromic acid (Chromium trioxide)  
Cocculus (solid)  
Copper compounds  
Cresols  
Cupriethylene diamine  
Cyanide compounds  
Cyanogen bromide  
Cyanogen chloride  
DDT  
Dichloroanilines  
Dichlorobenzenes

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Diieldrin  
Dimethoate (Cygon)  
Dimethyl amine (40% aqueous)  
Dinitroanilines  
4, 6-Dinitroorthocresol  
Dinitrophenols  
Endosulphan (Thiodan)  
Endrin  
Epichlorohydrin  
Ethyl bromoacetate  
Ethylene chlorohydrin (2-Chloro-ethanol)  
Ethylene dichloride  
Ethyl parathion  
Fentin acetate (dry)  
Fluosilicic acid  
Heptachlor  
Hexachlorobenzene  
Hexaethyl tetraphosphate  
Hydrocyanic acid  
Hydrofluoric acid (40% aqueous)  
Isoprene  
Lead compounds  
Lindane (Gammexane, BHC)  
Malathion  
Mercuric compounds  
Methyl alcohol  
Methylene chloride  
Molasses  
Naphthalene (molten)  
Naphthylthiourea  
Nitric acid (90%)  
Oleum  
Parathion  
Paraquat  
Phenol  
Phosphoric acid  
Phosphorus (elemental)  
Polyhalogenated biphenyls  
Sodium pentachlorophenate (solution)  
Styrene monomer  
Toluene

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Toluene diisocyanate  
Toxaphene  
Tritolyl phosphate (Tricresyl phosphate)  
2, 4, 5-T

3. Liquefied Gases (when carried in bulk)

Acetaldehyde  
Anhydrous Ammonia  
Butadiene  
Butane  
Butane/Propane Mixtures  
Butylenes  
Chlorine  
Dimethylamine  
Ethyl Chloride  
Ethane  
Ethylene  
Ethylene Oxide  
Methane (LNG)  
Methyl Acetylene Propadiene mixture  
Methyl Bromide  
Methyl Chloride  
Propane  
Propylene  
Vinyl Chloride Monomer  
Anhydrous Hydrogen Chloride  
Anhydrous Hydrogen Fluoride  
Sulphur Dioxide

4. Radioactive Substances

Radioactive substances, including, but not limited to, elements and compounds the isotopes of which are subject to the requirements of Section 835 of the Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition, published by the International Atomic Energy Agency, and which may be found to be stored or transported as substances and/or materials in Type A packages, Type B packages, as fissile materials or materials transported under special arrangements, such as

$^{60}\text{Co}$ ,  $^{137}\text{Cs}$ ,  $^{226}\text{Ra}$ ,  $^{239}\text{Pu}$ ,  $^{235}\text{U}$ .

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## Schedule 3—Resolution MEPC.49(31)

Subsection 3 (1)

adopted on 4 July 1991

REVISION OF THE LIST OF SUBSTANCES TO BE ANNEXED TO  
THE PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS  
IN CASES OF MARINE POLLUTION BY SUBSTANCES OTHER THAN  
OIL

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

NOTING Resolution 26 of the International Conference on Marine Pollution, 1973 which requested the appropriate body designated by the Organization to establish, not later than 30 November 1974, the list of substances to be annexed to the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, 1973, (the 1973 Protocol),

NOTING FURTHER Resolution A.296 (VIII) by which the Assembly designated the Committee as the appropriate body referred to in articles I and III of the above-mentioned Protocol,

RECALLING Resolution MEPC.1 (II) by which the Committee established on 21 November 1974 a list of substances to be annexed to the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, in accordance with Resolution 26 of the International Conference on Marine Pollution, 1973, and Resolution A.296 (VIII),

HAVING CONSIDERED proposals by governments for revising the list,

HAVING taken account of scientific advice provided by the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) with regard to evaluation of the hazards of harmful substances in the marine environment and by the International Atomic Energy Agency in respect of radioactive materials,

HAVING taken account of technical advice provided by the Sub-Committee on Bulk Chemicals and by the Sub-Committee on the Carriage of Dangerous Goods,

1. ADOPTS by the required two-thirds majority of the Parties to the 1973 Protocol present and voting in the Committee the amended list which appears in the Annex to this Resolution;

2. REQUESTS the Secretary-General to communicate the amended list to all Parties to the 1973 Protocol in accordance with article III, paragraph 5, for acceptance, and to inform them that the amended list shall be deemed to have been accepted at the end of the period of six months after it has been communicated, unless within that period an objection to these amendments has been communicated to the Organization by not less than one third of the Parties, and that the amended list shall enter into force three months after it has been deemed to have been accepted;
3. REQUESTS FURTHER the Secretary-General to annex copies thereof to the authentic text of the Protocol in accordance with article I, paragraph 2 (a), once the amended list has been accepted in accordance with article III, paragraph 6, to replace the existing list;
4. DECIDES that the list should be kept under review, in consultation and co-operation with competent international organizations, in particular the International Atomic Energy Agency in respect of radioactive materials.

ANNEX

LIST OF SUBSTANCES

Appendix 1

Oil carried in bulk as listed in appendix I to Annex I of MARPOL 73/78 other than those covered by the 1969 Intervention Convention

Asphalt solutions

Blending stocks

Roofers flux

Straight run residue

Oils

Clarified

Road oil

Transformer oil

Aromatic oil (excluding vegetable oil)

Mineral oil

Motor oil

Penetrating oil

Spindle oil

Turbine oil

Distillates

Straight run

Flashed feed stocks

Gas oil

Cracked

Naphtha

Solvent

Petroleum

Heartcut distillate oil

Gasolines blending stocks

Alkylates—fuel

Reformats

Polymer—fuel

Gasolines

Casinghead (natural)

Automotive

Aviation

Straight run

Fuel oil No. 1 (Kerosene)

Fuel oil No. 1-D

Fuel oil No. 2

Fuel oil No. 2-D

Jet fuels

JP-1 (Kerosene)

JP-3

JP-5 (Kerosene, heavy)

Turbo fuel

Kerosene

Mineral spirit

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Appendix 2

Noxious liquid substances carried in bulk

Acetone cyanohydrin  
Acetic anhydride  
Acrylonitrile  
Alcohol (C12-C15) poly (1-3) ethoxylates  
Alcohol (C12-C15) poly (3-11) ethoxylates  
Alcohol (C6-C17) (secondary) poly (3-6) ethoxylates  
Alcohol (C6-C17) (secondary) poly (7-12) ethoxylates  
Allyl alcohol  
Allyl chloride  
Ammonium sulphide solution (45% or less)  
Aniline  
Benzene and mixtures having 10% benzene or more  
Benzyl chloride  
Butene oligomer  
n-Butyl acrylate  
Butylbenzenes (all isomers)  
Butyl benzyl phthalate  
n-Butyraldehyde  
Calcium hypochlorite solution (more than 15%)  
Calcium naphthenate in mineral oil  
Camphor oil  
Carbolic oil  
Carbon disulphide  
Carbon tetrachloride  
Chlorinated paraffins (C10-C13)  
Chlorobenzene  
Chloroform  
o-Chloronitrobenzene  
m-Chlorotoluene  
o-Chlorotoluene  
p-Chlorotoluene

Chlorotoluenes (mixed isomers)  
Coal tar  
Coal tar naphtha solvent  
Cobalt naphthenate in solvent naphtha  
Creosote (coal tar)  
Creosote (wood)  
Cresols (all isomers)  
Cresylic acid, sodium salt solution  
Crotonaldehyde  
Cyclohexyl acetate  
1,3-Cyclopentadiene dimer (molten)  
Cyclopentene  
Decene  
Decyl acrylate  
Decyl alcohol (all isomers)  
Dibutyl phthalate  
Dichlorobenzenes (all isomers)  
1,1-Dichloroethane  
Dichloroethyl ether  
1,6-Dichlorohexene  
2,4-Dichlorophenol  
2,4-Dichlorophenoxyacetic acid, diethanolamine salt solution  
2,4-Dichlorophenoxyacetic acid, dimethylamine salt solution (70% or less)  
2,4-Dichlorophenoxyacetic acid, triisopropanolamine salt solution  
1,1-Dichloropropane  
1,2-Dichloropropane  
1,3-Dichloropropane  
1,3-Dichloropropene  
Dichloropropene/Dichloropropane mixtures  
Diethyl sulphate  
Diglycidyl ether of bisphenol A  
Diglycidyl ether of bisphenol F  
Di-n-hexyl adipate

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Diisobutylene  
Diisobutyl phthalate  
Diisopropylbenzene (all isomers)  
Dimethyl adipate  
Dimethylamine solution (45% or less)  
Dimethylamine solution (greater than 45% but not greater than 55%)  
Dimethylamine solution (greater than 55% but not greater than 65%)  
Dinitrotoluene (molten)  
Diphenyl  
Diphenyl/Diphenyl ether mixtures  
Diphenyl ether  
Diphenyl ether/Diphenyl phenyl ether mixture  
Diphenylmethane diisocyanate  
Diphenylol propane-epichlorohydrin resins  
Dodecene (all isomers)  
Dodecyl alcohol  
Dodecyl diphenyl ether disulphonate solution  
Dodecyl phenol  
Drilling brines, containing Zinc salts  
Epichlorohydrin  
Ethyl acrylate  
Ethylene chlorohydrin  
Ethylene dibromide  
Ethylene dichloride  
2-Ethylhexyl acrylate  
2-Ethylhexylamine  
Ethylidene norbornene  
o-Ethylphenol  
2-Ethyl-3-propylacrolein  
Ethyltoluene  
Fluorosilicic acid  
Fumaric adduct of rosin, water dispersion  
Glycidyl ester of C10 trialkylacetic acid

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Heptyl acetate  
Hexyl acetate  
2-Hydroxyethyl acrylate  
Isobutyl acrylate  
Isophorone diisocyanate  
Isopropylbenzene  
Lactonitrile solution (80% or less)  
Lauric acid  
Mercaptobenzothiazol, sodium salt solution  
Metam sodium solution  
Methacrylic resin in 1,2-Dichloroethane solution  
Methacrylonitrile  
Methyl acrylate  
Methylcyclopentadiene dimer  
2-Methyl-5-ethyl pyridine  
Methyl heptyl ketone  
Methylnaphthalene  
2-Methylpyridine  
4-Methylpyridine  
N-Methyl-2-pyrrolidone  
Methyl salicylate  
alpha-Methylstyrene  
Motor fuel anti-knock compounds  
Naphthalene (molten)  
Naphthenic acids  
Nitrobenzene  
o-Nitrophenol (molten)  
Nonene  
Nonylphenol  
Nonylphenol poly (4-12) ethoxylates  
Octane (all isomers)  
Octene (all isomers)  
Octyl aldehydes

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Octyl nitrates (all isomers)  
Olefin mixtures (C5-C15)  
Oleum  
alpha-Olefins (C6-C18) mixtures  
Pentachloroethane  
Perchloroethylene  
Phenol  
Phosphorus, yellow or white  
Pinene  
n-Propyl chloride  
Propylene tetramer  
Propylene trimer  
Rosin  
Rosin soap (disproportionated) solution  
Sodium hydrosulphide/Ammonium sulphide solution  
Sodium hydrosulphide solution (45% or less)  
Sodium sulphide solution  
Sodium nitrite solution  
Sodium thiocyanate solution (56% or less)  
Styrene monomer  
Tall oil (crude and distilled)  
Tall oil soap (disproportionated) solution  
Tetrachloroethane  
Toluene  
Toluene diisocyanate  
Tributyl phosphate  
1,2,4-Trichlorobenzene  
1,1,1-Trichloroethane  
1,1,2-Trichloroethane  
Trichloroethylene  
1,2,3-Trichloropropane  
Tricresyl phosphate (containing less than 1% ortho-isomer)  
Tricresyl phosphate (containing 1% or more ortho-isomer)

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Triethylbenzene  
Trimethyl benzenes (all isomers)  
Trimethylhexamethylene diisocyanate (2,2,4-and 2,4,4-isomers)  
Trixylyl phosphate  
Turpentine  
1-Undecene  
Undecyl alcohol  
Vinylidene chloride  
Vinyl neodecanoate  
Vinyltoluene  
White spirit, low (15-20%) aromatic  
Xylenol

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Appendix 3

Harmful substances carried in packaged form

Substances

Binapacryl

Cadmium compounds, except Cadmium selenide and Cadmium sulphide

Chlorinated paraffins (C10-C13)

Chlorophenates

Copper cyanide

Coumarin derivative pesticides as follows:

    Brodifacoum

    Coumaphos

Cresyl diphenyl phosphate

Cypermethrin

Diphenylamine chloroarsine

Diphenylchloroarsine

Dodecylphenol

Ethylchloroarsine

Fenprothrin

Hexachlorobutadiene

Mercuric arsenate

Mercuric chloride

Mercuric nitrate

Mercuric potassium cyanide

Mercurous nitrate

Mercury acetates

Mercury ammonium chloride

Mercury based pesticides

Mercury benzoate

Mercury bromides

Mercury compounds except Mercuric sulphide and Mercury iodide

Mercury cyanide

Mercury gluconate

Mercury nucleate

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Mercury oleate

Mercury oxide

Mercury oxycyanide desensitized

Mercury potassium iodide

Mercury salicylate

Mercury sulphates

Mercury thiocyanate

Nickel cyanide

Nickel carbonyl

Organochlorine pesticides as follows:

Aldrin

Campechlor

Chlordane

DDT

Dieldrin

Endosulfan

Endrin

Heptachlor

Lindane (gamma-BCH)

Organophosphorus pesticides as follows:

Azinphos-methyl

Azinphos-ethyl

Bromophos-ethyl

Carbophenothion

Chlorpyrifos

Chlorthiophos

Dialifos

Diazinon

Dichlofenthion

Dichlorvos

Dimethoate

EPN Ethion

Fenitrothion

Fenthion  
Fonofos  
Isoxathion  
Mevinphos  
Parathion  
Parathion-methyl  
Pirimiphos ethyl  
Phenthoate  
Phorate  
Phosalone  
Phosphamidon  
Pyrazophos  
Sulprophos  
Terbufos  
Organotin compounds  
Organotin pesticides  
Osmium tetroxide  
Pentachlorophenol  
Phenylmercuric acetate  
Phenylmercuric compounds  
Phenylmercuric nitrate  
Phosphorus, white or yellow  
Polychlorinated biphenyls or terphenyls  
Polyhalogenated biphenyls or terphenyls  
Potassium cuprocyanide  
Silver arsenite  
Sodium cuprocyanide  
Sodium pentachlorophenate  
Triaryl phosphates  
Tricresyl phosphates, more than 1% ortho-isomer  
Zinc cyanide

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Appendix 4

Radioactive materials

Radioactive materials which are transported in type B packages, or as fissile materials, or under special arrangement, as covered by the provisions of schedules 10 to 13 of class 7 of the International Maritime Dangerous Goods Code.

Appendix 5

Liquefied gases carried in bulk

Acetaldehyde  
Anhydrous Ammonia  
Chlorine  
Dimethylamine  
Ethyl chloride  
Ethylene oxide  
Hydrogen chloride, anhydrous  
Hydrogen fluoride, anhydrous  
Methyl bromide  
Methyl chloride  
Sulphur dioxide  
Vinyl chloride monomer

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## **Schedule 4—Resolution MEPC. 72(38) by Marine Environment Protection Committee**

Note: See subsection 3(1).

### REVISION OF THE ANNEX (LIST OF SUBSTANCES) TO THE PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF POLLUTION BY SUBSTANCES OTHER THAN OIL OF 2 NOVEMBER 1973

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

NOTING Resolution 26 of the International Conference on Marine Pollution, 1973 which requested the appropriate body designated by the Organization to establish, not later than 30 November 1974, the list of substances to be annexed to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil, 1973 (the 1973 Intervention Protocol),

NOTING FURTHER Resolution A.296(VIII) by which the Assembly designated the Committee as the appropriate body referred to in Articles I and III of the above-mentioned Protocol,

RECALLING Resolution MEPC.49(31) by which the Committee adopted on 4 July 1991 an amended list to replace the original list annexed to the Protocol,

RECALLING FURTHER that it had approved, at its thirty-fifth session, the Criteria for the Selection of Substances for Inclusion in the Annex to the 1973 Intervention Protocol,

NOTING ALSO that the 1992 amendments to the IBC Code and Amendment 27 of the IMDG Code had entered into force,

HAVING CONSIDERED the proposed amendments to Appendix 2, noxious liquid substances carried in bulk, and Appendix 3, harmful substances carried in packaged form, prepared by the Secretariat in accordance with the above-mentioned criteria and taking into account the recent amendments to the IBC and IMDG Codes,

1. ADOPTS, by the required two-thirds majority of the Parties to the 1973 Intervention Protocol present and voting in the Committee, the amended list which appears in the Annex to this Resolution;
2. REQUESTS the Secretary-General to communicate the amended list to all Parties to the 1973 Intervention Protocol in accordance with Article III, paragraph 5, for acceptance, and to inform them that the amended list shall be deemed to have been accepted at the end of the period of six months after it has been communicated, unless within that period an objection to these amendments has been communicated to the Organization by not less than one third of the Parties, and that the amended list shall enter into force three months after it has been deemed to have been accepted; and
3. REQUESTS FURTHER the Secretary-General to annex copies thereof to the authentic text of the Protocol in accordance with Article I, paragraph 2(a), once the amended list has been accepted in accordance with Article III, paragraph 6, to replace the existing list.

ANNEX

LIST OF SUBSTANCES

APPENDIX 1

OIL CARRIED IN BULK AS LISTED IN APPENDIX I TO ANNEX I OF  
MARPOL 73/78 OTHER THAN THOSE COVERED BY THE 1969  
INTERVENTION CONVENTION

**Asphalt solutions**

Blending stocks  
Roofers flux  
Straight run residue

**Oils**

Clarified  
Road oil  
Transformer oil  
Aromatic oil (excluding vegetable oil)

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Mineral oil  
Motor oil  
Penetrating oil  
Spindle oil  
Turbine oil

**Distillates**

Straight run  
Flashed feed stocks

**Gas oil**

Cracked

**Naphtha**

Solvent  
Petroleum  
Heartcut distillate oil

**Gasoline blending stocks**

Alkylates - fuel  
Reformats  
Polymer - fuel

**Gasolines**

Casinghead (natural)  
Automotive  
Aviation  
Straight run  
Fuel oil No. 1 (Kerosene)  
Fuel oil No. 1-D  
Fuel oil No. 2  
Fuel oil No. 2-D

**Jet fuels**

JP-1 (Kerosene)  
JP-3  
JP-5 (Kerosene, heavy)  
Turbo fuel  
Kerosene  
Mineral spirit

APPENDIX 2

NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK

Acetone cyanohydrin  
Acrylonitrile  
Alachlor technical (90% or more)  
Alcohol (C6-C17) (secondary) poly(3-6) ethoxylates  
Alcohol (C12-C15) poly(1-6) ethoxylates  
Alcohol (C6-C17) (secondary) poly(7-12) ethoxylates  
Alcohol (C12-C15) poly(7-19) ethoxylates  
Alkaryl polyethers (C9-C20)  
Alkyl (C3-C4) benzenes  
Alkyl (C5-C8) benzenes  
Alkyl (C7-C9) nitrates  
Alkyl acrylate-vinyl pyridine copolymer in toluene  
Alkylbenzene, alkyllindane, alkyllindene mixture (each C12-C17)  
Allyl alcohol  
Allyl chloride  
Ammonium sulphide solution (45% or less)  
Aniline  
Benzene and mixtures having 10% benzene or more\*  
Benzyl chloride  
Benzyl alcohol  
Butene oligomer  
Butyl butyrate (all isomers)  
Butyl benzyl phthalate  
Butyl acrylate (all isomers)  
Butylamine (all isomers)  
Butyraldehyde (all isomers)  
Calcium alkyl (C9) phenol sulphide/Polyolefin phosphorosulphide mixture  
Calcium hypochlorite solution (more than 15%)

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Calcium long-chain alkyl phenate sulphide (C8-C40)  
Camphor oil  
Carbolic oil  
Carbon disulphide  
Carbon tetrachloride  
Chlorinated paraffins (C10-C13)  
Chloroacetic acid (80% or less)  
Chlorobenzene  
o-Chloronitrobenzene  
Chloroform  
Chlorohydrins (crude)  
2- or 3-Chloropropionic acid  
m-Chlorotoluene  
o-Chlorotoluene  
p-Chlorotoluene  
Chlorotoluenes (mixed isomers)  
Coal tar  
Coal tar naphtha solvent  
Coal tar pitch (molten)  
Cobalt naphthenate in solvent naphtha  
Creosote (coal tar)  
Creosote (wood)  
Cresols (all isomers)  
Cresylic acid, dephenolized  
Cresylic acid, sodium salt solution  
Crotonaldehyde  
1,5,9-Cyclododecatriene  
Cyclohexyl acetate  
Cyclohexylamine  
1,3-Cyclopentadiene dimer (molten)  
Cyclopentene  
Decanoic acid  
Decene  
Decyl acetate  
Decyl alcohol (all isomers)  
Decyl acrylate  
Decyloxytetrahydro-thiophene dioxide  
Di-n-hexyl adipate  
Di-n-propylamine  
Dibutyl phthalate  
Dibutyl hydrogen phosphonate

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Dibutylamine  
Dichlorobenzene (all isomers)  
Dichloroethyl ether  
1,6-Dichlorohexane  
2,4-Dichlorophenol  
2,4-Dichlorophenoxyacetic acid, diethanolamine salt solution  
2,4-Dichlorophenoxyacetic acid, dimethylamine salt solution (70% or less)  
2,4-Dichlorophenoxyacetic acid, triisopropanolamine salt solution  
1,2-Dichloropropane  
1,3-Dichloropropene  
Dichloropropene/Dichloro- propane mixtures  
Diethyl sulphate  
Diethylamine  
Diethylaminoethanol  
Diethylbenzene  
Diglycidyl ether of bisphenol F  
Diglycidyl ether of bisphenol A  
Diisobutyl phthalate  
Diisobutylamine  
Diisobutylene  
Diisopropylamine  
Diisopropylbenzene (all isomers)  
Dimethyl octanoic acid  
Dimethyl adipate  
Dimethyl hydrogen phosphite  
Dimethylamine solution (greater than 55% but not greater than 65%)  
Dimethylamine solution (greater than 45% but not greater than 55%)  
Dimethylamine solution (45% or less)  
N,N-Dimethylcyclohexylamine  
Dinitrotoluene (molten)  
1,4-Dioxane  
Diphenyl  
Diphenyl ether  
Diphenyl ether/Diphenyl phenyl ether mixture  
Diphenyl/Diphenyl ether mixtures  
Diphenylamine, reaction product with 2,2,4-Trimethylpentene  
Diphenylamines, alkylated  
Diphenylmethane diisocyanate  
Diphenylol propane  
Diphenylol propane- epichlorohydrin resins  
Ddocene (all isomers)

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Dodecyl alcohol  
Dodecyl diphenyl ether disulphonate solution  
Dodecyl phenol  
Dodecylamine/Tetradecylamine mixture  
Dodecyldimethylamine/Tetradecyldimethylamine mixture  
Drilling brines (containing Zinc salts)  
Epichlorohydrin  
Ethyl acrylate  
Ethylamine solutions (72% or less)  
Ethylamine  
Ethylbenzene  
N-Ethylbutylamine  
Ethylene dichloride  
Ethylene dibromide  
Ethylene chlorohydrin  
Ethylene oxide/Propylene oxide mixture with an Ethylene oxide content of not more than 30% in weight  
Ethylene glycol methyl ether acetate  
Ethylenediamine  
2-Ethylhexyl acrylate  
2-Ethylhexylamine  
Ethylidene norbornene  
o-Ethylphenol  
2-Ethyl-3-propylacrolein  
Ethyltoluene  
Fluorosilicic acid (20-30%) in water solution  
Formaldehyde solutions (45% or less)  
Fumaric adduct of rosin, water dispersion  
Furfural  
Glycidyl ester of C10 trialkylacetic acid  
Heptyl acetate  
Hexamethylenediamine solution  
Hexyl acetate  
2-Hydroxyethyl acrylate  
2-Hydroxy-4-(methylthio) butanoic acid  
Isophorone diisocyanate  
Isophoronediamine  
Lactonitrile solution (80% or less)  
Lauric acid  
Liquid chemical wastes  
Long chain polyetheramine in alkyl (C2-C4) benzenes

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Long chain polyetheramine in aromatic solvent  
Long chain alkaryl polyether (C11-C20)  
Magnesium long chain alkyl salicylate (C11+)  
Mercaptobenzothiazol, sodium salt solution  
Metam sodium solution  
Methacrylic resin in Ethylene dichloride  
Methyl acrylate  
Methyl butyl ketone  
2-Methyl-6-ethyl aniline  
Methyl heptyl ketone  
Methyl methacrylate  
Methylcyclopentadiene dimer  
Methyl naphthalene (molten)  
3-Methylpyridine  
Methyl salicylate  
alpha-Methylstyrene  
Motor fuel anti-knock compounds (containing lead alkyls)  
Naphthalene (molten)  
Naphthenic acids  
Neodecanoic acid  
Nitrating acid (mixture of sulphuric and nitric acids)  
Nitrobenzene  
o-Nitrophenol (molten)  
o- or p-Nitrotoluenes  
Nonene (all isomers)  
Nonyl phenol  
Nonyl phenol poly(4-12) ethoxylates  
Noxious liquid, N.F, (1) n.o.s. (trade name ..., contains ... ) S.T.1, Cat.A\*  
Noxious liquid, F, (2) n.o.s. (trade name ..., contains ... ) S.T.1, Cat.A\*  
Noxious liquid, N.F, (3) n.o.s. (trade name ..., contains ... ) S.T.2, Cat.A\*  
Noxious liquid, F, (4) n.o.s. (trade name ..., contains ... ) S.T.2, Cat.A\*  
Noxious liquid, N.F, (5) n.o.s. (trade name ..., contains ... ) S.T.2, Cat.B\*  
Noxious liquid, N.F, (6) n.o.s. (trade name ..., contains ... ) S.T.2, Cat.B\*, mp  
Noxious liquid, F, (7) n.o.s. (trade name ..., contains ... ) S.T.2, Cat.B\*  
Noxious liquid, F, (8) n.o.s. (trade name ..., contains ... ) S.T.2, Cat.B\*, mp  
Noxious liquid, N.F, (9) n.o.s. (trade name ..., contains ... ) S.T.3, Cat.A\*  
Noxious liquid, F, (10) n.o.s. (trade name ..., contains ... ) S.T.3, Cat.A\*  
Noxious liquid, N.F, (11) n.o.s. (trade name ..., contains ... ) S.T.3, Cat.B\*  
Noxious liquid, N.F, (12) n.o.s. (trade name ..., contains ... ) S.T.3, Cat.B\*, mp  
Noxious liquid, F, (13) n.o.s. (trade name ..., contains ... ) S.T.3, Cat.B\*  
Noxious liquid, F, (14) n.o.s. (trade name ..., contains ... ) S.T.3, Cat.B\*, mp

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Octene (all isomers)  
Octyl aldehydes  
Olefin mixtures (C5-C15)  
alpha-Olefins (C6-C18) mixtures  
Oleum  
Oleylamine  
Palm kernel acid oil  
Pentachloroethane  
Perchloroethylene  
Phosphorus, yellow or white  
Phthalic anhydride (molten)  
alpha-Pinene  
beta-Pinene  
Poly(2+)cyclic aromatics  
Polyethylene polyamines  
Polyolefin amide alkeneamine (C28+)  
Polyolefin amide alkeneamine borate (C28-C250)  
Polyolefin amide alkeneamine polyol  
Polyolefinamine in aromatic solvent  
Polyolefinamine in alkyl (C2-C4) benzenes  
Polyolefin ester (C28-C250)  
beta-Propiolactone  
Propionitrile  
n-Propylamine  
Propylbenzene (all isomers)  
Propylene trimer  
Propylene oxide  
Propylene tetramer  
Rosin soap (disproportionated) solution  
Rosin  
Sodium sulphide solution (15% or less)  
Sodium dichromate solution (70% or less)  
Sodium hydrogen sulphide (6% or less)/Sodium carbonate (3% or less) solution  
Sodium hydrosulphide solution (45% or less)  
Sodium hydrosulphide/Ammonium sulphide solution  
Sodium petroleum sulfonate  
Sodium nitrite solution  
Sodium thiocyanate solution (56% or less)  
Styrene monomer  
Sulpho hydrocarbon long chain (C18+) alkylamine mixture  
Sulphuric acid

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Sulphuric acid, spent  
Tall oil (crude and distilled)  
Tall oil fatty acid (resin acids less than 20%)  
Tall oil soap (disproportionated) solution  
Tall oil fatty acid, barium salt  
Tetrachloroethane  
Tetramethylbenzene (all isomers)  
Toluene  
Toluene diisocyanate  
Toluenediamine  
o-Toluidine  
Tributyl phosphate  
1,2,4-Trichlorobenzene  
Trichloroethylene  
Tricresyl phosphate (containing 1% or more ortho-isomer)  
Tricresyl phosphate (containing less than 1% ortho-isomer)  
Triethylamine  
Triethylbenzene  
Triethylenetetramine  
Triethylphosphite  
Triisopropylated phenyl phosphates  
Trimethylamine solution (30% or less)  
Trimethylbenzene (all isomers)  
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-isomers)  
Trixylyl phosphate  
Turpentine  
Undecanoic acid  
1-Undecene  
Undecyl alcohol  
Vinyl neodecanoate  
Vinylidene chloride  
Vinyltoluene  
White spirit, low (15-20%) aromatic  
Xylenes  
Xylenol  
Zinc alkaryl dithiophosphate (C7-C16)  
Zinc alkyl dithiophosphate (C3-C14)

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APPENDIX 3

HARMFUL SUBSTANCES IN PACKAGED FORM

Aldrin  
Azinphos-ethyl  
Azinphos-methyl  
gamma-BHC  
Binapacryl  
Brodifacoum  
Bromophos-ethyl  
Cadmium compound  
Camphechlor  
Carbophenothion  
Chlordane  
Chlorinated paraffin (C10-C13)  
Chlorophenolates, liquid  
Chlorophenolates, solid  
Chlorpyrifos  
Chlorthiophos  
Copper cyanide  
Copper metal powder  
Coumaphos  
Cresyl diphenylphosphate  
Cupric cyanide  
Cupric sulphate  
1,5,9-Cyclododecatriene  
Cyhexatin  
Cymenes (ortho-; meta-; para-)  
Cymol  
Cypermethrin  
DDT  
Dialifos  
Diazinon  
Dichlofenthion  
Dichlorvos  
Dieldrin  
Dimethoate  
Diphenylaminechloroarsine  
Diphenylchloroarsine, liquid  
Diphenylchloroarsine, solid

Dodecylphenol  
Endosulfan  
Endrin  
EPN  
Esfenvalerate  
Ethion  
Fenbutatin oxide  
Fenitrothion  
Fenpropathrin  
Fenthion  
Fentin acetate  
Fentin hydroxide  
Fonofos  
Heptachlor  
Hexachlorobutadiene  
Hexachloro-1,3-butadiene  
1,3-Hexachlorobutadiene  
Isopropyltoluene  
Isopropyltoluol  
Isoxathion  
Lindane  
Mercuric acetate  
Mercuric ammonium chloride  
Mercuric arsenate  
Mercuric benzoate  
Mercuric bisulphate  
Mercuric bromide  
Mercuric chloride  
Mercuric cyanide  
Mercuric gluconate  
Mercuric nitrate  
Mercuric oleate  
Mercuric oxide  
Mercuric oxycyanide, desensitized  
Mercuric potassium cyanide  
Mercuric sulphate  
Mercuric thiocyanate  
Mercuriol  
Mercurous acetate  
Mercurous bisulphate  
Mercurous bromide

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Mercurous chloride  
Mercurous nitrate  
Mercurous salicylate  
Mercurous sulphate  
Mercury acetate  
Mercury ammonium chloride  
Mercury-based pesticide, liquid, flammable, toxic, flashpoint less than 23deg.C c.c.  
Mercury-based pesticide, liquid, toxic  
Mercury-based pesticide, liquid, toxic, flammable, flashpoint between 23deg.C and 61deg.C c.c.  
Mercury-based pesticide, solid, toxic  
Mercury benzoate  
Mercury bichloride  
Mercury bisulphate  
Mercury bromides  
Mercury compound, liquid, n.o.s.  
Mercury compound, solid, n.o.s.  
Mercury(ii) (mercuric) compounds or Mercury(i)(mercurous) compounds  
Mercury cyanide  
Mercury gluconate  
Mercury nucleate  
Mercury oleate  
Mercury oxide  
Mercury oxycyanide, desensitized  
Mercury potassium cyanide  
Mercury potassium iodide  
Mercury salicylate  
Mercury sulphate  
Mercury thiocyanate  
Methylpropylbenzenes  
Mevinphos  
Nickel carbonyl  
Nickel cyanide  
Nickel tetracarbonyl  
Organotin compound, liquid, n.o.s.  
Organotin compound, solid, n.o.s.  
Organotin compounds  
(pesticides)  
Organotin pesticide, liquid, flammable, toxic, flashpoint less than 23deg.C c.c.  
Organotin pesticide, liquid, toxic

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Organotin pesticide, liquid, toxic, flammable, flashpoint between 23deg.C and 61deg.C c.c.  
Organotin pesticide, solid, toxic  
Osmium tetroxide  
Parathion  
Parathion-methyl  
PCB's  
Pentachlorophenol  
Phenarsazine chloride  
Phenthoate  
Phenylmercuric acetate  
Phenylmercuric compound, n.o.s.  
Phenylmercuric hydroxide  
Phenylmercuric nitrate  
Phorate  
Phosalone  
Phosphamidon  
Phosphorus, white, dry  
Phosphorus, white, molten  
Phosphorus, white, under water  
Phosphorus, yellow, dry  
Phosphorus, yellow, molten  
Phosphorus, yellow, under water  
Polychlorinated biphenyls  
Polyhalogenated biphenyls, liquid  
Polyhalogenated biphenyls, solid  
Polyhalogenated ter-phenyls, liquid  
Polyhalogenated ter-phenyls, solid  
Potassium cuprocyanide  
Potassium cyanocuprate  
Potassium cyanomercurate  
Potassium mercuric iodide  
Pyrazophos  
Quizalofop  
Quizalofop-p-ethyl  
Sodium copper cyanide, solid  
Sodium copper cyanide, solution  
Sodium cuprocyanide, solid  
Sodium cuprocyanide, solution  
Sodium pentachlorophenate  
Sulprophos

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White phosphorus, dry  
White phosphorus, wet  
Yellow phosphorus, dry  
Yellow phosphorus, wet  
Terbufos  
Tetrachlorvinphos

#### APPENDIX 4

#### RADIOACTIVE MATERIALS

Radioactive materials which are transported in type B package, or as fissile materials, or under special arrangements, as covered by the provisions of schedule 10 to 13 of class 7 of the International Maritime Dangerous Goods Code.

#### APPENDIX 5

#### LIQUEFIED GASES CARRIED IN BULK

Acetaldehyde  
Anhydrous ammonia  
Chlorine  
Dimethylamine  
Ethyl chloride  
Ethylene oxide  
Hydrogen chloride, anhydrous  
Hydrogen fluoride, anhydrous  
Methyl bromide  
Methyl chloride  
Sulphur dioxide  
Vinyl chloride monomer





## Table of Acts

**Notes to the *Protection of the Sea (Powers of Intervention) Act 1981*****Note 1**

The *Protection of the Sea (Powers of Intervention) Act 1981* as shown in this compilation comprises Act No. 33, 1981 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information *see* Table A.

**Table of Acts**

| Act  | Number and year | Date of Assent | Date of commencement   | Application, saving or transitional provisions |
|--|-----------------|----------------|--|--|
| <i>Protection of the Sea (Powers of Intervention) Act 1981</i>                                       | 33, 1981        | 14 Apr 1981    | 5 Feb 1984 (see <i>Gazette</i> 1984, No. S31)                |  |
| <i>Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988</i>               | 99, 1988        | 2 Dec 1988     | 2 Dec 1988   | —  |
| <i>Australian Maritime Safety Authority Act 1990</i>   | 78, 1990        | 22 Oct 1990    | Ss. 35, 48, 62 and 63: 1 Jan 1991<br>Remainder: Royal Assent | S. 63  |
| <i>Transport and Communications Legislation Amendment Act (No. 2) 1992</i>                           | 71, 1992        | 26 June 1992   | Part 8 (ss. 26–28):<br>Royal Assent (a)                      | —  |
| <i>Statute Law Revision Act 1996</i>   | 43, 1996        | 25 Oct 1996    | Schedule 5 (items 121, 122):<br>Royal Assent (b)             | —  |
| <i>Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001</i> | 143, 2001       | 1 Oct 2001     | 2 Oct 2001   | S. 4 [see Table A]                             |
| <i>International Maritime Conventions Legislation Amendment Act 2001</i>                             | 149, 2001       | 1 Oct 2001     | Schedule 2: Royal Assent (c)                                 | —  |
| <i>Protection of the Sea (Powers of Intervention) Amendment Act 2006</i>                             | 44, 2006        | 22 May 2006    | 23 May 2006  | —  |

**Table of Acts**

| Act  | Number and year | Date of Assent | Date of commencement  | Application, saving or transitional provisions |
|--|-----------------|----------------|---|--|
| <i>Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) (Consequential Amendments) Act 2008</i> | 77, 2008        | 12 July 2008   | Schedule 1 (item 6): 16 June 2009 (see s. 2(1))                       | —  |
| <i>Statute Law Revision Act 2010</i>   | 8, 2010         | 1 Mar 2010     | Schedule 5 (item 83): Royal Assent                                    | —  |
| <i>Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010</i>  | 103, 2010       | 13 July 2010   | Schedule 6 (items 1, 87–89): 1 Jan 2011                               | —  |
| <i>Acts Interpretation Amendment Act 2011</i>  | 46, 2011        | 27 June 2011   | Schedule 2 (items 941–943) and Schedule 3 (items 10, 11): 27 Dec 2011 | Sch. 3 (items 10, 11) [see Table A]            |

**Act Notes**

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- (a) The *Protection of the Sea (Powers of Intervention) Act 1981* was amended by Part 8 (sections 26–28) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1992*, 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.
- (b) The *Protection of the Sea (Powers of Intervention) Act 1981* was amended by Schedule 5 (items 121 and 122) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
  - (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (c) The *Protection of the Sea (Powers of Intervention) Act 1981* was amended by Schedule 2 only of the *International Maritime Conventions Legislation Amendment Act 2001*, 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.



**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

| Provision affected     | How affected  |
|------------------------|---|
| S. 3 .....             | am. No. 78, 1990; No. 71, 1992; No. 149, 2001; No. 44, 2006; Nos. 8 and 103, 2010; No. 46, 2011 |
| S. 3A .....            | ad. No. 143, 2001<br>rep. No. 44, 2006  |
| S. 4 .....             | am. No. 78, 1990; No. 44, 2006  |
| Heading to s. 5 .....  | am. No. 44, 2006  |
| S. 5 .....             | am. No. 44, 2006  |
| S. 7 .....             | am. No. 43, 1996; No. 44, 2006  |
| Note to s. 7(1) .....  | ad. No. 44, 2006  |
| Heading to s. 8 .....  | am. No. 44, 2006  |
| S. 8 .....             | am. No. 78, 1990; No. 44, 2006  |
| Heading to s. 9 .....  | am. No. 44, 2006  |
| S. 9 .....             | am. No. 78, 1990; No. 44, 2006  |
| Heading to s. 10 ..... | am. No. 44, 2006  |
| S. 10 .....            | am. No. 78, 1990; No. 44, 2006; No. 46, 2011  |
| S. 11 .....            | am. No. 78, 1990; No. 44, 2006  |
| S. 12 .....            | am. No. 43, 1996; No. 44, 2006  |
| Heading to s. 14 ..... | am. No. 44, 2006  |
| S. 14 .....            | am. No. 44, 2006  |
| S. 15 .....            | am. No. 78, 1990  |
| S. 17 .....            | am. No. 78, 1990; No. 44, 2006  |
| S. 17A .....           | ad. No. 44, 2006<br>am. No. 77, 2008  |
| S. 17B .....           | ad. No. 44, 2006  |
| Heading to s. 18 ..... | am. No. 44, 2006  |
| S. 18 .....            | am. No. 78, 1990; No. 43, 1996; No. 44, 2006  |
| S. 19 .....            | am. No. 44, 2006  |
| S. 21 .....            | am. No. 44, 2006  |
| Note to s. 21 .....    | ad. No. 143, 2001<br>am. No. 44, 2006   |
| S. 22 .....            | rs. No. 44, 2006  |
| S. 23 .....            | am. No. 78, 1990  |
| S. 24 .....            | am. No. 99, 1988; No. 78, 1990<br>rep. No. 44, 2006   |
| Schedule 3 .....       | ad. No. 71, 1992  |
| Schedule 4 .....       | ad. No. 149, 2001   |

**Table A**

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**Table A**

**Application, saving or transitional provisions**

*Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001* (No. 143, 2001)

**4 Application of Amendments**

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

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*Acts Interpretation Amendment Act 2011* (No. 46, 2011)

**Schedule 3**

**10 Saving—appointments**

The amendments made by Schedule 2 do not affect the validity of an appointment that was made under an Act before the commencement of this item and that was in force immediately before that commencement.

**11 Transitional regulations**

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments and repeals made by Schedules 1 and 2.