

Protection of the Sea (Prevention of Pollution from Ships) Amendment (Air Pollution) Act 2019

No. 123, 2019

An Act to amend the *Protection of the Sea* (*Prevention of Pollution from Ships*) Act 1983, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (https://www.legislation.gov.au/)

Authorised Version C2019A00123

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No. 123, 2019

An Act to amend the *Protection of the Sea* (*Prevention of Pollution from Ships*) Act 1983, and for related purposes

[Assented to 12 December 2019]

The Parliament of Australia enacts:

No. 123, 2019 Protection of the Sea (Prevention of Pollution from Ships) Amendment (Air Pollution) Act 2019 1

Authorised Version C2019A00123

1 Short title

This Act is the Protection of the Sea (Prevention of Pollution from Ships) Amendment (Air Pollution) Act 2019.

2 Commencement

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

Commencement information			
Column 1	Column 2	Column 3	
Provisions	Commencement	Date/Details	
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	12 December 2019	
2. Schedule 1, Part 1	The later of:	1 January 2020	
	(a) the day after this Act receives the Royal Assent; and	(paragraph (b) applies)	
	(b) 1 January 2020.		
3. Schedule 1, Part 2	The later of:	1 March 2020	
	(a) immediately after the commencement of the provisions covered by table item 2; and	(paragraph (b) applies)	
	(b) the start of 1 March 2020.		
4. Schedules 2 and 3	The day after this Act receives the Royal Assent.	13 December 2019	
Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.			
(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.			

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Schedule 1—Sulphur content of fuel oil

Part 1—Annex VI approved equivalents

Protection of the Sea (Prevention of Pollution from Ships) Act 1983

1 Subsection 3(1)

Insert:

Annex VI approved equivalent: see section 26FEKA.

prescribed officer: see subsection (2).

2 Subsection 5(2)

After "26FEG,", insert "26FEGA,".

3 Section 26FEG (heading)

Repeal the heading, substitute:

26FEG Using fuel oil—offences

4 Paragraph 26FEG(1)(b)

After "ship", insert "as fuel".

5 Paragraph 26FEG(2)(a)

Omit "prescribed limit is used on board the ship", substitute "limit prescribed for the purposes of paragraph (1)(b) is used on board the ship as fuel".

6 Subsections 26FEG(5) and (6)

Repeal the subsections (including the notes).

7 After section 26FEG

Insert:

26FEGA Using fuel oil—exceptions

Exception for ships with Annex VI approved equivalents

- (1) Subsection 26FEG(1) or (2) does not apply to using fuel oil on board a ship as fuel if the following requirements are satisfied:
 - (a) the fuel oil is used while an Annex VI approved equivalent is operating on the ship;
 - (b) if the regulations prescribe, for the purposes of this paragraph, requirements in relation to the operation of the Annex VI approved equivalent—the Annex VI approved equivalent is operating in accordance with those requirements;
 - (c) if the regulations prescribe, for the purposes of this paragraph, requirements in relation to the discharge of waste streams arising from the operation of the Annex VI approved equivalent—the waste streams are discharged in accordance with those requirements.
 - Note: For *Annex VI approved equivalent*, see section 26FEKA.

Exceptions for emergencies

- (3) Subsection 26FEG(2) does not apply if:
 - (a) the matters mentioned in that subsection occur as a result of securing the safety of a ship or saving life at sea; or
 - (b) the requirements of subsection (1) or (7) of this section are not satisfied, but it is likely that those requirements would have been satisfied were it not for conduct engaged in for the purpose of securing the safety of a ship or saving life at sea.
- (4) Subsection 26FEG(2) does not apply in relation to a ship if:
 - (a) either:
 - (i) the matters mentioned in that subsection occur as a result of unintentional damage to the ship or its equipment; or
 - (ii) the requirements of subsection (1) of this section are not satisfied, but it is likely that those requirements would have been satisfied were it not for unintentional damage to the ship or its equipment; and

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- (b) if the regulations prescribe, for the purposes of this paragraph, a level of total emission of sulphur oxides:
 - (i) after the occurrence of the unintentional damage, the total emission of sulphur oxides from the ship does not exceed that level; or
 - (ii) after the occurrence of the unintentional damage, all reasonable precautions are taken to prevent the total emission of sulphur oxides from exceeding that level, or to minimise the total emission of sulphur oxides; or
 - (iii) if the discovery that the total emission exceeds that limit occurs before the discovery of the unintentional damage—after the discovery of that total emission, all reasonable precautions are taken to prevent the total emission of sulphur oxides from exceeding that level, or to minimise the total emission of sulphur oxides.
- (5) For the purposes of subsection (4), damage to a ship or to its equipment is not unintentional if the damage arose:
 - (a) in circumstances where the master or owner of the ship:
 - (i) acted with intent to cause the damage; or
 - (ii) acted recklessly and with knowledge that the damage would probably result; or
 - (b) as a result of the negligence of the master or owner of the ship.
- (6) For the purposes of this section, damage to a ship or to its equipment does not include:
 - (a) deterioration resulting from failure to maintain the ship or equipment; or
 - (b) defects that develop during the normal operation of the ship or equipment.

Exception for the unavailability of fuel oil with a sulphur content of not more than the prescribed limit

- (7) Subsection 26FEG(1) or (2) does not apply to using fuel oil (the *high-sulphur fuel oil*) on board a ship if the following requirements are satisfied:
 - (a) the person responsible for obtaining fuel oil for use on board the ship took all reasonable steps to obtain fuel oil with a

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sulphur content of not more than the limit prescribed for the purposes of paragraph 26FEG(1)(b);

- (b) a prescribed officer is notified (in accordance with any requirements prescribed by the regulations for the purposes of this paragraph) that fuel oil with a sulphur content of not more than that limit was not able to be obtained for the ship;
- (c) if the ship's next port of destination after the high-sulphur fuel oil was supplied to the ship is a port in a foreign country—the government of that foreign country is notified (in accordance with any requirements prescribed by the regulations for the purposes of this paragraph) that fuel oil with a sulphur content of not more than that limit was not able to be obtained for the ship.
- Note: A defendant bears an evidential burden in relation to the matters in this section: see subsection 13.3(3) of the *Criminal Code*.

8 Section 26FEH (at the end of the heading)

Add "-offences".

9 Paragraphs 26FEH(1)(c) and (2)(c)

Omit "SOx emission control conditions", substitute "requirements of subsection (4)".

10 Subsections 26FEH(4) to (9)

Repeal the subsections (including the notes), substitute:

SOx emission control conditions—using fuel oil

- (4) A ship meets the requirements of this subsection while the ship is in an emission control area if:
 - (a) the sulphur content of the fuel oil used on board the ship as fuel does not exceed the limit prescribed by the regulations for the purposes of this paragraph; or
 - (b) all of the following requirements are satisfied:
 - (i) an Annex VI approved equivalent is operating on the ship;
 - (ii) if the regulations prescribe, for the purposes of this subparagraph, requirements in relation to the operation of the Annex VI approved equivalent—the Annex VI

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No. 123, 2019 Protection of the Sea (Prevention of Pollution from Ships) Amendment (Air Pollution) Act 2019 approved equivalent is operating in accordance with those requirements;

- (iii) if the regulations prescribe, for the purposes of this subparagraph, requirements in relation to discharging waste streams arising from the operation of the Annex VI approved equivalent—the waste streams are discharged in accordance with those requirements.
- Note: For *Annex VI approved equivalent*, see section 26FEKA.

11 After section 26FEH

Insert:

26FEHA Australian ship in emission control area—exceptions

Exceptions for emergencies

- (1) Subsection 26FEH(2) does not apply:
 - (a) if the matters mentioned in that subsection occur as a result of securing the safety of a ship or saving life at sea; or
 - (b) if:
 - (i) the requirements of subsection (5) of this section are not satisfied; and
 - (ii) it is likely that those requirements would have been satisfied were it not for conduct engaged in for the purpose of securing the safety of a ship or saving life at sea.
- (2) Subsection 26FEH(2) does not apply in relation to a ship if:
 - (a) the matters mentioned in that subsection occur as a result of unintentional damage to the ship or its equipment; and
 - (b) if the regulations prescribe, for the purposes of this paragraph, a level of total emission of sulphur oxides:
 - (i) after the occurrence of the unintentional damage, the total emission of sulphur oxides from the ship does not exceed that level; or
 - (ii) after the occurrence of the unintentional damage, all reasonable precautions are taken to prevent the total emission of sulphur oxides from exceeding that level, or to minimise the total emission of sulphur oxides; or
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- (iii) if the discovery that the total emission exceeds that limit occurs before the discovery of the unintentional damage—after the discovery of that total emission, all reasonable precautions are taken to prevent the total emission of sulphur oxides from exceeding that level, or to minimise the total emission of sulphur oxides.
- (3) For the purposes of subsection (2), damage to a ship or to its equipment is not unintentional if the damage arose:
 - (a) in circumstances where the master or owner of the ship:
 - (i) acted with intent to cause the damage; or
 - (ii) acted recklessly and with knowledge that the damage would probably result; or
 - (b) as a result of the negligence of the master or owner of the ship.
- (4) For the purposes of this section, damage to a ship or to its equipment does not include:
 - (a) deterioration resulting from failure to maintain the ship or equipment; or
 - (b) defects that develop during the normal operation of the ship or equipment.

Exception for the unavailability of fuel oil with a sulphur content of not more than the prescribed limit

- (5) Subsection 26FEH(1) or (2) does not apply to using fuel oil (the *high-sulphur fuel oil*) on board a ship as fuel if the following requirements are satisfied:
 - (a) the person responsible for obtaining fuel oil for use on board the ship took all reasonable steps to obtain fuel oil with a sulphur content of not more than the limit prescribed for the purposes of paragraph 26FEH(4)(a);
 - (b) a prescribed officer is notified (in accordance with any requirements prescribed by the regulations for the purposes of this paragraph) that fuel oil with a sulphur content of not more than that limit was not able to be obtained for the ship;
 - (c) if the ship's next port of destination after the high-sulphur fuel oil was supplied to the ship is a port in a foreign country—the government of that foreign country is notified

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(in accordance with any requirements prescribed by the regulations for the purposes of this paragraph) that fuel oil with a sulphur content of not more than that limit was not able to be obtained for the ship.

12 Subsection 26FEK(2)

After "Sections 26FEH,", insert "26FEHA,".

13 At the end of Division 2 of Part IIID

Add:

26FEKA Annex VI approved equivalents

- (1) An Annex VI approved equivalent, in relation to a ship, is:
 - (a) an exhaust gas cleaning system; or
 - (b) another technological method for reducing sulphur oxide emissions;

that is approved for use on board the ship:

- (c) under the regulations made for the purposes of subsection (2); or
- (d) if the ship is a foreign ship that is registered:
 - (i) by the government of the country in which the ship is registered; and
 - (ii) in accordance with the guidelines mentioned in Regulation 4 of Annex VI.
- (2) For the purposes of paragraph (1)(c), the regulations may make provision for, or in relation to, the approval of:
 - (a) an exhaust gas cleaning system; or
 - (b) another technological method for reducing sulphur oxide emissions;
 - by a prescribed officer for use on board a ship.
- (3) If an approval given under regulations made for the purposes of subsection (2) is given in writing, the approval is not a legislative instrument.

Note: A defendant bears an evidential burden in relation to the matters in this section: see subsection 13.3(3) of the *Criminal Code*.

¹⁰ Protection of the Sea (Prevention of Pollution from Ships) Amendment No. 123, 2019 (Air Pollution) Act 2019

14 Transitional provision

(1) Orders:

- (a) made under section 34 of the *Protection of the Sea* (*Prevention of Pollution from Ships*) *Act 1983* for the purposes of paragraph 26FEH(4)(a) of that Act; and
- (b) in force immediately before the commencement of this item;

continue in force (and may be dealt with) as if they had been made for the purposes of that paragraph as amended by this Part.

(2) An approval:

- (a) given under subparagraph 26FEH(4)(b)(i) of the *Protection* of the Sea (Prevention of Pollution from Ships) Act 1983; and
- (b) in force immediately before the commencement of this item;

has effect, from that commencement, as if it had been given under the regulations as mentioned in paragraph 26FEKA(1)(c) of that Act, as amended by this Part.

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Part 2—Fuel oil carried on board ships

Protection of the Sea (Prevention of Pollution from Ships) Act 1983

15 Section 26FEG (heading)

After "Using fuel oil", insert "or carrying fuel oil for use".

16 Paragraph 26FEG(1)(b)

Repeal the paragraph, substitute:

- (b) the conduct results in fuel oil with a sulphur content of more than the limit prescribed by the regulations for the purposes of this paragraph being:
 - (i) used on board a ship as fuel; or
 - (ii) carried on board a ship for use on board the ship as fuel; and

17 Paragraph 26FEG(1)(c)

Omit "that result", substitute "the result mentioned in paragraph (b)".

18 Paragraph 26FEG(1)(d)

Repeal the paragraph, substitute:

- (d) the result mentioned in paragraph (b) occurs in one of the following circumstances:
 - (i) the ship is in the sea near a State, the Jervis Bay Territory or an external Territory and no law of that State or Territory gives effect to paragraph 1 of Regulation 14 of Annex VI in relation to the area of the sea where the result occurs;
 - (ii) the ship is in the outer territorial sea;
 - (iii) the ship is in the exclusive economic zone;
 - (iv) the ship is an Australian ship that is beyond the exclusive economic zone, but not within an emission control area.

¹² Protection of the Sea (Prevention of Pollution from Ships) Amendment No. 123, 2019 (Air Pollution) Act 2019

19 Paragraphs 26FEG(2)(a) and (b)

Repeal the paragraphs, substitute:

- (a) fuel oil with a sulphur content of more than the limit prescribed for the purposes of paragraph (1)(b) is:
 - (i) used on board the ship as fuel; or
 - (ii) carried on board the ship for use on board the ship as fuel; and
- (b) one of the following applies:
 - (i) the ship is in the sea near a State, the Jervis Bay Territory or an external Territory and no law of that State or Territory gives effect to paragraph 1 of Regulation 14 of Annex VI in relation to the area of the sea where the fuel oil is used or carried as mentioned in paragraph (a);
 - (ii) the ship is in the outer territorial sea;
 - (iii) the ship is in the exclusive economic zone;
 - (iv) the ship is an Australian ship that is beyond the exclusive economic zone, but not within an emission control area.

20 Subsection 26FEG(4)

Repeal the subsection, substitute:

Presumptions

- (4) For the purposes of this section and section 26FEGA, fuel oil carried on board a ship is presumed to be carried for use on board the ship as fuel unless the contrary is proved.
 - Note: A defendant bears a legal burden in relation to proving the contrary: see section 13.4 of the *Criminal Code*.
- (5) For the purposes of subsection (1) of this section, the result mentioned in paragraph (1)(b) is presumed to occur in one of the circumstances mentioned in paragraph (1)(d) unless it is proved that the result did not occur in any of those circumstances.
 - Note: A defendant bears a legal burden in relation to proving that the result did not occur in any of those circumstances: see section 13.4 of the *Criminal Code*.

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No. 123, 2019 Protection of the Sea (Prevention of Pollution from Ships) Amendment (Air Pollution) Act 2019 (6) For the purposes of subsection (2) of this section, each subparagraph in paragraph (2)(b) is presumed to apply unless it is proved that the subparagraph does not apply.

21 Section 26FEGA (heading)

After "Using fuel oil", insert "or carrying fuel oil for use".

22 After subsection 26FEGA(1)

Insert:

(2) Subsection 26FEG(1) or (2) does not apply to carrying fuel oil on board a ship if an Annex VI approved equivalent is installed on the ship.

23 Paragraph 26FEGA(3)(b)

After "subsection (1)", insert ", (2)".

24 Subparagraph 26FEGA(4)(a)(ii)

After "subsection (1)", insert "or (2)".

25 Subsection 26FEGA(7)

After "using", insert "or carrying".

26 Paragraphs 26FEH(1)(c) and (2)(c)

Omit "subsection (4)", substitute "subsections (4) and (5)".

27 At the end of section 26FEH

Add:

SOx emission control conditions—carrying fuel oil for use

- (5) A ship meets the requirements of this subsection while the ship is in an emission control area if:
 - (a) the sulphur content of the fuel oil carried on board the ship for use on board the ship as fuel does not exceed the limit prescribed for the purposes of paragraph 26FEG(1)(b); or
 - (b) an Annex VI approved equivalent is installed on the ship.

Note: A defendant bears a legal burden in relation to proving that the subparagraph does not apply: see section 13.4 of the *Criminal Code*.

¹⁴ Protection of the Sea (Prevention of Pollution from Ships) Amendment No. 123, 2019 (Air Pollution) Act 2019

Presumption

(6) For the purposes of this section and section 26FEHA, fuel oil carried on board a ship is presumed to be carried for use on board the ship as fuel unless the contrary is proved.

28 Paragraph 26FEHA(1)(b)

Before "if", insert "to using fuel oil on board a ship as fuel".

29 At the end of subsection 26FEHA(1)

Add:

; or (c) to carrying fuel oil on board a ship if:

- (i) the requirements of subsection (6) of this section are not satisfied; and
- (ii) it is likely that those requirements would have been satisfied were it not for conduct engaged in for the purpose of securing the safety of a ship or saving life at sea.

30 Subsection 26FEHA(5) (heading)

Omit "Exception", substitute "Exceptions".

31 After subsection 26FEHA(5) (before the note)

Insert:

- (6) Subsection 26FEH(1) or (2) does not apply to carrying fuel oil (the *high-sulphur fuel oil*) on board a ship for use on board the ship as fuel if the following requirements are satisfied:
 - (a) the person responsible for obtaining fuel oil for use on board the ship took all reasonable steps to obtain fuel oil with a sulphur content of not more than the limit prescribed for the purposes of paragraph 26FEG(1)(b);
 - (b) a prescribed officer is notified (in accordance with any requirements prescribed by the regulations for the purposes of this paragraph) that fuel oil with a sulphur content of not more than that limit was not able to be obtained for the ship;

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Note: A defendant bears a legal burden in relation to proving the contrary: see section 13.4 of the *Criminal Code*.

(c) if the ship's next port of destination after the high-sulphur fuel oil was supplied to the ship is a port in a foreign country—the government of that foreign country is notified (in accordance with any requirements prescribed by the regulations for the purposes of this paragraph) that fuel oil with a sulphur content of not more than that limit was not able to be obtained for the ship.

32 Subsection 27A(6) (paragraph (b) of the definition of *pollution breach*)

Repeal the paragraph, substitute:

- (b) an offence against section 26FEG in relation to fuel oil used on board a ship as fuel; or
- (c) an offence against section 26FEN.

33 Transitional provision

Orders:

- (a) made under section 34 of the *Protection of the Sea* (*Prevention of Pollution from Ships*) *Act 1983* for the purposes of paragraph 26FEG(1)(b) of that Act; and
- (b) in force immediately before the commencement of this item;

continue in force (and may be dealt with) as if they had been made for the purposes of that paragraph as amended by this Part.

Schedule 2—Suppliers of fuel oil

Protection of the Sea (Prevention of Pollution from Ships) Act 1983

1 Subsection 26FEF(1)

Repeal the following definitions:

- (a) definition of *fuel oil supplier*;
- (b) definition of *registered local supplier of fuel oil*.

2 Paragraphs 26FEL(a) and (b)

Repeal the paragraphs, substitute:

- (a) the person supplies fuel oil to a ship; and
- (b) the person is not registered on the Register of Local Suppliers of Fuel Oil; and

3 Paragraph 26FEL(c)

Omit "delivery happens while", substitute "supply happens while".

4 Subparagraph 26FEL(c)(i)

Omit "delivery", substitute "supply".

5 Subsection 26FEM(1)

Omit "local suppliers of fuel oil", substitute "persons who supply fuel oil to ships".

6 Subparagraphs 26FEM(3)(b)(i) and (ii)

Omit "as local suppliers of fuel oil", substitute "on the Register of Local Suppliers of Fuel Oil".

7 Paragraph 26FEN(1)(b)

Omit "paragraph 3 of Regulation 18 of".

8 Paragraph 26FEO(1)(a)

Omit "delivers", substitute "supplies".

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9 Paragraph 26FEO(1)(c)

Omit "delivery happens while", substitute "supply happens while".

10 Subparagraph 26FEO(1)(c)(i)

Omit "delivery", substitute "supply".

11 Paragraph 26FEO(1)(d)

Repeal the paragraph, substitute:

(d) the person does not provide to the master of the ship a completed bunker delivery note for the fuel oil supplied that meets the requirements of subsection (1A).

12 After subsection 26FEO(1)

Insert:

- (1A) For the purposes of paragraph (1)(d), the bunker delivery note must:
 - (a) be provided in the approved form; and
 - (b) contain a declaration that:
 - (i) certifies that the fuel oil supplied meets the requirements set out in Annex VI; and
 - (ii) is signed by the person responsible for the final blend of the components of the fuel oil supplied, or by that person's representative; and
 - (c) if the regulations prescribe, for the purposes of this paragraph, requirements in relation to providing the bunker delivery note—be provided in accordance with those requirements.

13 Paragraph 26FEO(2)(a)

Omit "delivers", substitute "supplies".

14 Paragraph 26FEO(2)(c)

Omit "delivery happens while", substitute "supply happens while".

15 Subparagraph 26FEO(2)(c)(i)

Omit "delivery", substitute "supply".

16 Section 26FEP (heading)

Omit "delivered", substitute "supplied".

17 Paragraphs 26FEP(1)(a) and (b)

Repeal the paragraphs, substitute:

- (a) fuel oil (other than gas fuel) is supplied to a ship; and
- (b) the person is responsible for the final blend of the components of the fuel oil supplied; and

18 Paragraph 26FEP(1)(d)

Omit "delivery happens while", substitute "supply happens while".

19 Subparagraph 26FEP(1)(d)(i)

Omit "delivery", substitute "supply".

20 Paragraph 26FEP(1)(e)

Omit "the delivery", substitute "the supply".

21 Paragraph 26FEP(1)(f)

Omit "paragraph 3 of Regulation 18 of".

22 Paragraph 26FEP(1)(g)

Omit "delivered", substitute "supplied".

23 Before subsection 26FEQ(1)

Insert:

Local supplier

24 Paragraph 26FEQ(1)(a)

Repeal the paragraph, substitute:

- (a) the person supplies fuel oil (other than gas fuel) to a ship; and
- (aa) the ship has a gross tonnage of 400 or more; and

25 Paragraph 26FEQ(1)(b)

Omit "the delivery", substitute "the supply".

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26 Subparagraph 26FEQ(1)(c)(i)

Omit "delivered", substitute "supplied".

27 Before subsection 26FEQ(2)

Insert:

Master and owner of Australian ship

28 Paragraph 26FEQ(2)(a)

Repeal the paragraph, substitute: (a) fuel oil (other than gas fuel) is supplied to the ship; and

29 Paragraph 26FEQ(2)(c)

Omit "the delivery", substitute "the supply".

30 Subparagraph 26FEQ(2)(d)(i)

Omit "delivery", substitute "supply".

31 Before subsection 26FEQ(3)

Insert:

Master and owner of foreign ship

32 Paragraph 26FEQ(3)(a)

Repeal the paragraph, substitute:

(a) fuel oil (other than gas fuel) is supplied to the ship; and

33 Paragraph 26FEQ(3)(c)

Omit "the delivery", substitute "the supply".

34 Subparagraph 26FEQ(3)(d)(i)

Omit "delivery", substitute "supply".

35 Before subsection 26FEQ(4)

Insert:

Strict liability offences

36 Paragraph 26FER(1)(a)

Repeal the paragraph, substitute:

(a) fuel oil (other than gas fuel) is supplied to the ship; and

37 Paragraph 26FER(1)(c)

Omit "delivery", substitute "supply".

38 Subparagraphs 26FER(1)(d)(i) and (ii)

Omit "delivered", substitute "supplied".

39 Paragraph 26FES(1)(a)

Omit "delivers", substitute "supplies".

40 Paragraph 26FES(1)(c)

Omit "delivery happens while", substitute "supply happens while".

41 Subparagraph 26FES(1)(c)(i)

Omit "delivery", substitute "supply".

42 Paragraph 26FES(1)(d)

Omit "delivery", substitute "supply".

43 Paragraph 26FES(1)(d)

Omit "delivered", substitute "supplied".

44 Transitional provision

- (1) The amendments of section 26FEM of the *Protection of the Sea* (*Prevention of Pollution from Ships*) *Act 1983* made by this Schedule do not affect the continuity of the register established under that section.
- (2) Orders:
 - (a) made under section 34 of the *Protection of the Sea* (*Prevention of Pollution from Ships*) *Act 1983* for the purposes of paragraph 26FEO(1)(d) of that Act; and
 - (b) in force immediately before the commencement of this item;

No. 123, 2019 Protection of the Sea (Prevention of Pollution from Ships) Amendment 21 (Air Pollution) Act 2019 have effect, from that commencement, as if they had been made for the purposes of paragraph 26FEO(1A)(c) of that Act, as amended by this Schedule.

- (3) An approval of a form:
 - (a) made under section 3A of the *Protection of the Sea* (*Prevention of Pollution from Ships*) *Act 1983* for the purposes of paragraph 26FEO(1)(d) of that Act; and
 - (b) in force immediately before the commencement of this item;

has effect, from that commencement, as if it had been made for the purposes of paragraph 26FEO(1A)(a) of that Act, as amended by this Schedule.

Schedule 3—Naval and government ships exemption

Protection of the Sea (Prevention of Pollution from Ships) Act 1983

1 After section 6

Insert:

6A Act does not apply to certain naval or government ships

- (1) This Act does not apply to, or in relation to, any of the following ships used for the time being only on government non-commercial service:
 - (a) a warship or naval auxiliary;
 - (b) a ship (other than a warship or naval auxiliary) owned or operated by a State other than Australia.
- (2) An expression that is used in subsection (1) of this section and in Article 3(3) of the Convention has, in that subsection, the same meaning as in that Article.

[Minister's second reading speech made in— House of Representatives on 18 September 2019 Senate on 17 October 2019]

(181/19)

No. 123, 2019 Protection of the Sea (Prevention of Pollution from Ships) Amendment (Air Pollution) Act 2019