
[Assented to 15 April 1982]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Prevention of Pollution of Waters by Oil Act Amendment Act, 1982".

(2) The Prevention of Pollution of Waters by Oil Act, 1961-1979, is in this Act referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Prevention of Pollution of Waters by Oil Act, 1961-1982".

2. Section 3 of the principal Act is amended—

(a) by inserting in subsection (1) after the definition of "the Convention" the following definition:

"Director-General" means the person for the time being holding or acting in the office of Director-General of Marine and Harbors; and

(b) by inserting in subsection (1) after the definition of "discharge" the following definition:

"harbormaster" means an officer charged with the administration of Part III of the Harbors Act, 1936-1981, at a port in this State and includes an assistant harbormaster.

3. Section 5 of the principal Act is amended by striking out from paragraph (a) of subsection (2) the passage "the agent".

4. Section 7 of the principal Act is amended—

(a) by striking out paragraph (a) and substituting the following paragraph:

(a) may take or cause to be taken such action as he thinks fit—

(i) to prevent or limit the discharge;
(ii) to disperse or contain substances that have been discharged;

(iii) to remove substances that have been discharged from waters or land affected by the discharge;

or

(iv) to protect, or limit damage to, property that has been, or is likely to be, affected by the discharge;

and

(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) No civil liability shall attach to the Minister for any act or failure to act under this section.

5. Section 7a of the principal Act is amended by striking out from subsection (5) the passage "to whom notice was given under subsection (1) of this section" and substituting the passage "liable under section 5 of this Act for the discharge, or who would have been so liable had the discharge occurred".

6. Section 7c of the principal Act is amended—

(a) by striking out the passage "In any proceedings" and substituting the passage "Subject to this section, in any proceedings";

and

(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) In respect of a discharge from a ship, the defence provided by paragraph (d) of subsection (1) is not available—

(a) to an agent in respect of an act or omission of the owner, the master, or a member of the crew of the ship;

(b) to the owner of the ship in respect of an act or omission of the agent, the master or a member of the crew of the ship;

or

(c) to the master of the ship in respect of an act or omission of a member of the crew of the ship.

7. Section 7d of the principal Act is amended—

(a) by striking out from subsection (1) the passage "A person" and substituting the passage "Subject to this section, a person";

and

(b) by inserting after subsection (1) the following subsection:

(1a) In respect of a discharge from a ship, the exemption from liability provided by paragraph (c) of subsection (1) is not available—

(a) to an agent, in respect of an act or omission of the owner, the master, or a member of the crew of the ship;
868 1982 Prevention of Pollution of Waters by Oil Act Amendment Act, 1982

(b) to the owner of the ship in respect of an act or omission of the agent, the master or a member of the crew of the ship;

or

(c) to the master of the ship in respect of an act or omission of a member of the crew of the ship.

8. Section 8 of the principal Act is amended by striking out from subsection (4) the passage "the agent".

9. Section 10 of the principal Act is amended—

(a) by inserting in subsection (1) after the word "Minister" the passage "the Director-General or the harbormaster of the nearest port";

(b) by striking out from paragraph (d) of subsection (2) the passage "the person by whom the records are to be kept" and substituting the passage "the master";

and

(c) by inserting in paragraph (a) of subsection (4) after the word "take" the passage "or require a person to take".

10. Section 12 of the principal Act is amended by striking out from subsection (3) the passage "the agent".

11. Section 14 of the principal Act is amended by inserting after the passage "by whom the records are to be kept" in subsection (1) the passage "or, in the case of a ship, the master of the ship".

12. Section 16 of the principal Act is amended by striking out paragraph (c) and substituting the following paragraph:

(c) an allegation in a complaint that information was not furnished as required by section 10 (1) or 10 (1a) shall, in the absence of proof to the contrary, be accepted as proved;

13. Section 17 of the principal Act is amended by striking out from subsection (1) the passage "Director of Marine and Harbors" and substituting the passage "Director-General".

14. The following section is inserted after section 17 of the principal Act:

17a. Any process issued against the owner or master of a ship in respect of an offence against this Act shall be regarded as having been duly served if served upon the agent of the ship.
15. Section 18 of the principal Act is amended by inserting in subparagraph (iv) of paragraph (a) after the word "section" the passage "7 or".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

W. R. CROCKER, Governor's Deputy