PROTECTION OF THE SEA (PREVENTION OF POLLUTION FROM SHIPS) BILL 1983

Date Introduced: 4 May 1983  
House: Senate  
Presented by: Senator A. Gietzelt, Minister representing the Minister for Transport

Short Digest of Bill

Purpose

To introduce new and improved controls for oil pollution by ships and on the operation of ships carrying noxious liquid substances in bulk.

Background

The Protection of the Sea (Prevention of Pollution from Ships) Bill 1982 was introduced into the House of Representatives on 21 October 1982 but lapsed when both Houses were prorogued in February 1983. Except for a typographical error the present Bill is identical to that Bill.

The Protection of the Sea (Discharge of Oil from Ships) Act 1981 applies the provisions of the 1954 International Convention for the Prevention of Pollution of the Sea by Oil - known as the 1954 OILPOL Convention. The 1973 International Convention for the Prevention of Pollution from Ships as amended by the 1978 Protocol to the Convention (widely referred to as MARPOL 1973-78) was developed to take advantage of technological advances that had occurred since the 1954 OILPOL Convention was made. The present Bill repeals and replaces the 1981 Act, to give effect to the MARPOL 1973-1978 Convention. The parties to the MARPOL 1973-1978 Convention are nearing the number necessary to bring it into force internationally. Australia will not be able to ratify the Convention until relevant Commonwealth State and Northern Territory legislation is in place. This Bill was introduced at the same time as the Navigation (Protection of the Sea) Amendment Bill 1983 which also relates to ships carrying or using oil and makes provisions for ships carrying noxious liquid substances in bulk.
Main Provisions

Clause 2 of the Bill will postpone the operation of parts of the proposed Act to dates fixed by Proclamation. Postponement is necessary until the MARPOL 1973-1978 Convention comes into force internationally and also until port reception for facilities can be made to comply with Annex II of the Convention.

Clause 4 extends the operation of the proposed Act to within and outside Australia and to every external territory. Clause 9 provides that the master and owner of an Australian ship are guilty of an offence if a discharge of oil or oily mixture occurs from the ship. Penalties of $50,000 for individuals and $100,000 for corporations are provided. The prosecution need only prove that a discharge occurred from the ship into the sea. Defences are available if the discharge was into territorial waters or if certain types of discharge occur, taking account of the pollution potential, operating procedures, or distance from land or the Great Barrier Reef of a ship.

Clause 10 ensures oily residues are retained on board ship until they are discharged to an appropriate reception facility. Clause 11 requires a ship's master to report oil discharges and clause 12 requires larger ships to have a book and record in it prescribed occurrences or operations.

Part III of the Bill regulates marine pollution by noxious substances. Appendix II to Annex II of the Convention details noxious liquid substances and Appendix III lists substances that are presently considered not harmful to human health or the marine environment. Clauses 17 and 18 allow for liquid substances to be deleted or added to either Appendix by regulation. Clause 19 provides for substances that are not listed in either Appendix to be carried in bulk by ship under the most severe conditions proposed by the Governments involved in the carriage. Clause 21 provides that a master and owner of a ship of an Australian ship are guilty of an offence if Appendix II substances are carried as cargo or part cargo in bulk. Similar penalties as those at clause 9 are provided. Defences are available depending on the concentration of the discharge, the speed of the ship, or the place of the discharge taking into account the distance from land or the Great Barrier Reef.

Surveyors under the Navigation Act 1912 and other persons appointed by the Minister may under clause 27 board a ship to ensure compliance with the Act by Australian ships and compliance with the Convention by foreign ships. Clause
29 puts no time limit on when prosecutions may be brought for breaches of the Act. Clause 32 enables regulations to be made to apply the record book requirements of the Act to foreign non-Convention ships.

Clause 33 enables regulations to be made covering the fitting of ships to prevent discharges, the fixing of fees, and the exemption of particular ships from the operation of the Act or of the regulations.

For further information, if required, contact:

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