NAVIGATION (PROTECTION OF THE SEA) AMENDMENT BILL 1981

Date Introduced: 5 March 1981
House: House of Representatives
Presented by: Hon. R.J.D. Hunt, Minister for Transport

Short Digest of Bill

Purpose

To repeal the provisions in the Navigation Act 1912 relating to civil liability and powers of intervention; and to include provisions relating to certification of tankers.

Background


Part VIIA of the Navigation Act 1912 deals with civil liability where shipping casualties occur and with powers of intervention in these circumstances. These provisions are now covered by the Protection of the Sea (Civil Liability) Bill 1981 and by the Protection of the Sea (Powers of Intervention) Bill 1981.

The 1971 (Tanker) Amendments to the 1954 Convention for the Prevention of Pollution of the Sea by Oil are set out in Schedule 5 to the Protection of the Sea (Discharge of Oil from Ships) Bill 1981. They require (article VI bis) tankers to be constructed in accordance with Annex C which sets out requirements relating to tank arrangements and the limitation of tank size. Article VI bis (2) requires tankers to carry certificates issued by Contracting Governments. This Bill includes in the Navigation Act 1912 provisions relating to certification of tankers.

Main Provisions

Clause 6 repeals Part VIIA dealing with civil liability and powers of intervention but these provisions continue to apply after the date of commencement of clause 6 to escapes of oil occurring or commencing before that date. Clause 6 is to come into operation when the Protection of the Sea (Powers of Intervention) Bill 1981 is proclaimed.
Clause 5 inserts new Division 12 in Part IV. It is not to apply to the extent that a State or Territory law makes provision to give effect to Article VI bis and Annex C of the Prevention of the Pollution of the Sea by Oil Convention (new section 267). Subject to this, the Governor-General may by regulations give effect to Article VI bis and the regulations can empower the Minister to make orders on any relevant matters. Orders must by gazetted and tabled and can be disallowed. Copies should be available for purchase as for statutory rules (new section 267A).

New section 267B empowers the Minister to issue certificates to Australian tankers attesting compliance with Article VI bis and Annex C (whether or not the tanker is required by that Article to be so constructed). These are to follow declarations of survey. The Minister may also supply a tanker exemption certificate if he is satisfied that Article VI bis and Annex C do not relate to it, and it does not, in fact, comply with their requirements (new section 267C).

New section 267D requires the master or owner of a tanker that has been certified to give notice within seven days of any alteration or damage affecting its compliance with Article VI bis and Annex C. Failure to do so is an offence ($500 for the master and any unincorporated owner; $1,000 for an incorporated owner). The Minister can cancel certificates on the grounds set out in new sub-section 267D(5); these relate to fraudulent or erroneous reports or information, alterations or damage affecting compliance or failure to comply with the requirements for periodical survey under new section 267E. Failure to have a periodical survey is an offence for the owner ($2,000 for an unincorporated owner and $5,000 for an incorporated owner).

New section 267G makes it an offence for an Australian tanker to be taken to sea without a tanker construction certificate or an exemption certificate. The penalties are $10,000 or imprisonment for four years or both for the master or unincorporated owner; and $40,000 for an incorporated owner. Significantly lower penalties apply ($200) for failure to carry certificates on board or to produce them to customs officers (new sections 267H and 267J).

Clause 267K allows the Minister to make directions about foreign tankers which he believes are not constructed in accordance with Article VI bis and Annex C; this applies even if the Prevention of Pollution of the Sea by Oil Convention does not require them to comply. The directions that the Minister may make include: that the tanker may not enter any port or specified ports or use off-shore
terminals; or that the tanker must comply with specified requirements in ports or off-shore terminals. However orders are only to be made if the Minister thinks it necessary and expedient to protect the environment and only to that extent. Failure to comply with such an order is an offence (penalties are $10,000 for the master or an unincorporated owner and $40,000 for an incorporated owner). It is a defence if failure to comply was to save life at sea or due to an emergency threatening a person's life or was because compliance was not possible.

New Division 12 is to operate from a date to be fixed by Proclamation but not earlier than the 1971 (Tanker) Amendments come into force.

Clause 4 amends section 191A of the Act which relates to the exercise of discretion of the Governor-General in making regulations giving effect to a Convention and the powers of the Minister to exercise judgments in administering any such regulations. Clause 4 inserts a reference to the Prevention of the Pollution of the Sea by Oil Convention which means the Convention including the 1971 (Tanker) Amendments. When the 1971 (Great Barrier Reef) Amendments come into operation it will also include them (see Digest of Protection of the Sea (Discharge of Oil from Ships) Bill 1981.

For further information, if required, contact:

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Law & Government Group
LEGISLATIVE RESEARCH SERVICE