

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

ALLAN PICKERING,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 20 October, 1960.*

## New South Wales



ANNO NONO

## ELIZABETHÆ II REGINÆ

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Act No.       , 1960.

An Act relating to the prevention of the pollution of navigable waters by oil; to repeal the Oil in Navigable Waters Act, 1927; and for purposes connected therewith.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Prevention of Oil Pollution of Navigable Waters Act, 1960".
- (2) Short title and commencement.

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*Prevention of Oil Pollution of Navigable Waters.*

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Oil in Navigable Waters Act, 1927, is hereby Repeal.  
5 repealed.

3. (1) This Act shall bind the Crown.

Act to  
bind Crown.

(2) This Act shall apply to all ships within the juris- Application.  
diction : Provided that sections nine, ten and fifteen of this  
Act shall not apply to ships trading, or proceeding, to or from  
10 a port outside the jurisdiction.

4. (1) In this Act, unless the context or subject matter Definitions.  
otherwise indicates or requires,—

“Board” means The Maritime Services Board of New  
South Wales.

15 “Discharge” means any discharge or escape, howsoever  
caused.

“Master” includes every person having lawfully or de  
facto the command, charge or management of a  
ship for the time being.

20 “Mixture containing oil” means a mixture of oil, as herein  
defined, with water or any other substance.

“Occupier” in relation to a place on land means the person  
exercising by himself, his servants or agents any  
right of occupation thereof, or if it has no occupier  
25 means the owner thereof, and in relation to a vehicle  
includes the person in charge thereof and the owner  
thereof and not the occupier of the land on or over  
which such vehicle stands or moves.

30 “Oil” means oil of any description and includes spirit  
produced therefrom and coal tar.

“Oil residues” means those parts of a mixture containing  
oil which remain after undergoing a separation  
process.

“Place



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*Prevention of Oil Pollution of Navigable Waters.*

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5 "Place on land" includes any structure or apparatus on, and any thing or vehicle resting on or moving over, any land, and anything resting on or lying under the bed or shores of any navigable waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of any navigable waters.

"Prescribed" means prescribed by this Act or the regulations thereunder.

10 "Regulations" means regulations made under this Act.

"Ship" includes every description of vessel or craft.

"Tanker" means a ship constructed or adapted for carrying a cargo of oil in bulk.

15 "The Convention" means the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and includes that Convention as amended by any amendment accepted by Australia.

20 "The jurisdiction" means the sea lying within the territorial limits, the ports and tidal rivers, and the inland navigable waters of New South Wales.

(2) Any discharge of oil, or of any mixture containing oil, onto or into any lands or waters, or any structure or thing, having the result that the whole or any part of such oil or mixture containing oil eventually enters any waters within  
25 the jurisdiction, is for all purposes under this Act a discharge into such waters within the jurisdiction of the said oil or mixture containing oil, or of so much of the same as enters the said waters within the jurisdiction.

5. (1) This Act shall be read and construed subject to the Saving.  
30 Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons  
35 or circumstances, shall not be affected.

(2)



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*Prevention of Oil Pollution of Navigable Waters.*

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(2) The provisions of this Act shall be read and construed as being in addition to and not in derogation of or in substitution for any provisions contained in any other Act or in any by-laws, ordinances or regulations made thereunder.

5 6. If any discharge of oil, or of any mixture containing oil, into any waters within the jurisdiction occurs from any ship, or from any place on land, or from any apparatus used for transferring oil from or to any ship (whether to or from a place on land or to or from another ship) then subject to the 10 provisions of this Act—

Discharge  
of oil into  
waters.

(a) if the discharge is from a ship, both the owner and the master of the ship, or

(b) if the discharge is from a place on land, the occupier of that place, or

15 (c) if the discharge is from apparatus used for transferring oil from or to a ship, the person in charge of the apparatus,

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one thousand pounds.

20 7. (1) Where the owner or master of a ship is charged with an offence against section six of this Act it shall be a defence to prove—

Special  
defences.

25 (a) that the discharge of oil or mixture containing oil was necessary for the purpose of securing the safety of the ship, or of preventing damage to the ship or cargo or of saving life, and was a reasonable step to take in the circumstances;

(b) that the oil or mixture containing oil escaped—

30 (i) in consequence of damage to the ship and that all reasonable steps were taken after the occurrence of the damage for stopping or reducing the escape of the oil or mixture; or

(ii)



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*Prevention of Oil Pollution of Navigable Waters.*

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5 (ii) in consequence of leakage which could not have been avoided, foreseen or anticipated and that all reasonable steps were taken for prompt discovery of the leakage and after such discovery for stopping or reducing the escape of the oil or mixture.

(2) Where the occupier of a place on land, or the person in charge of any apparatus, is charged with an offence under section six of this Act it shall be a defence to prove  
10 that the escape of the oil or mixture containing oil was due to accident which could not have been avoided, foreseen or anticipated, and that all reasonable steps were taken for prompt discovery of the escape of the oil or mixture and after such discovery for stopping or reducing such escape.

15 **8.** (1) Where any discharge of oil or of any mixture containing oil occurs as referred to in section six of this Act, the Board may take such action as it deems appropriate to remove, disperse, destroy or mitigate the pollution caused by the oil so discharged, or the oil contained in any mixture so  
20 discharged, or any substance other than water contained in any such mixture, and may recover all costs and expenses incurred in and about such removal, dispersal, destruction or mitigation from either the owner or master of the vessel from which the discharge occurs, or from the occupier of  
25 the place on land from which the discharge occurs or from the person in charge of the apparatus from which the discharge occurs, as the case may require.

Removal  
of oil  
pollution.

(2) Such costs and expenses may be recovered as a debt in any court of competent jurisdiction.

30 (3) Proceedings under this section shall be in addition to and not in derogation of or in substitution for any proceedings which may be taken apart from this section.

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9. (1) Every ship shall be fitted with such equipment for the prevention of the discharge of oil and of any mixture containing oil into any waters within the jurisdiction and shall comply with such requirements relating or incidental  
5 to such prevention as may be prescribed by regulations made by the Board with the approval of the Governor.

Equipment in ships to prevent oil pollution.

(2) Where any regulations made pursuant to this section require ships to be fitted with prescribed equipment the regulations may provide—

- 10 (a) for inspection of ships to which the regulations apply by persons appointed by the Board for that purpose;
- (b) that prescribed equipment shall not be installed in a ship to which the regulations apply unless it is of a type tested and approved by a person appointed  
15 by the Board for that purpose;
- (c) that equipment so tested and approved, while installed in such a ship shall not be treated as satisfying the requirements of the regulations unless, at such times as may be prescribed, it is tested and  
20 approved by a person appointed by the Board for that purpose; and
- (d) for payment of such fees for the inspection provided for in paragraph (a) of this subsection and the carrying out of tests provided for in  
25 paragraphs (b) and (c) of this subsection as may be prescribed.

(3) If, in the case of any ship, the provisions of any regulations under this section which apply to that ship are contravened, both the owner and the master of the ship shall  
30 be guilty of an offence against this Act and shall be liable to a penalty not exceeding five hundred pounds.

10. (1) The Board with the approval of the Governor may make regulations requiring the owner of a ship or the occupier of a place on land to keep or cause to be kept such  
35 records of the nature hereinafter described, and such other records, for the purposes of this Act, as may be prescribed.

Keeping of oil records.

(2)



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(2) The regulations may require the owner of a ship to keep or cause to be kept records—

- 5 (a) of any occasion on which oil or a mixture containing oil is discharged from such ship for the purpose of securing its safety or of preventing damage to such ship or cargo or of saving life;
- 10 (b) of any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from such ship in consequence of damage to such ship or by reason of leakage;
- (c) of the carrying out, on board or in connection with such ship, of such operations as may be prescribed, including operations relating to—
  - 15 (i) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks;
  - (ii) the separation of oil from water, or from other substances, in any mixture containing oil;
  - 20 (iii) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in subparagraphs (i) and (ii) of this paragraph; and
  - (iv) the disposal of any other oil residues;
- 25 (d) relating to the transfer of oil to or from such ship.

(3) The regulations may require the occupier of any place on land to keep or cause to be kept records relating to—

- 30 (a) the transfer of oil or a mixture containing oil from or to any ship and to, from, or through such place on land;
- (b) the operation of facilities provided at such place on land for the disposal of oil residues from any ship; and
- (c)

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- (c) any discharge of oil or a mixture containing oil occurring in the course of or in connection with any such transfer of oil or disposal of oil residues.
- (4) The regulations may—
- 5 (a) prescribe the form in which such records shall be kept and the nature of the entries to be made therein;
- (b) require the person keeping such records to retain them for a prescribed period;
- 10 (c) require that person, at the end of the prescribed period, to transmit such records to a place or person determined by or under the regulations;
- (d) provide for the custody or disposal of such records after their transmission to such place or person.
- 15 (5) Any person who makes any entry in any records required to be kept pursuant to this section which is to his knowledge false or misleading in any particular shall be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred pounds.
- 20 **11.** (1) If any discharge of oil, or of any mixture containing oil, occurs from any ship or from any place on land into any waters within the jurisdiction, the owner and master of the ship from which such discharge occurs or the occupier of the place on land from which such discharge occurs shall
- 25 forthwith inform the Board of all details of the occurrence, and, if he fails to do so, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds.
- (2) The harbour master of any port, or any officer
- 30 or employee of the Board having charge of any district, or any other person appointed for that purpose by the Board may where any discharge of oil or any mixture containing oil into any

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investiga-  
tion of  
discharges  
of oil, etc.



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any waters within the jurisdiction occurs or where he has reasonable cause to suspect that any such discharge has occurred—

- 5 (a) go on board and inspect any ship being within the jurisdiction;
- (b) inspect any records required to be kept in respect of such ship by this Act or any regulations made thereunder, or by any laws of any Contracting Government to the Convention for the carrying out of the purposes of the Convention;
- 10 (c) if such records are kept in a language other than English, be accompanied and assisted by an interpreter; and
- 15 (d) cause any entry in any such records to be copied and require the person by whom the records are to be kept to certify the copy as a true copy of the entry :

Provided that a person exercising any powers conferred by this section shall not unnecessarily detain or delay the ship  
20 from proceeding on any voyage.

(3) Any person appointed in that behalf by the Board may, where any discharge of oil or mixture containing oil from any place on land into any waters within the jurisdiction has occurred or where he has reasonable cause to suspect that  
25 any such discharge has occurred, enter and inspect such place on land, inspect any records required to be kept under this Act in respect of such place, cause any entry in any such records to be copied and require the person by whom the records are to be kept to certify the copy as a true copy of  
30 the entry.

(4) Any person making an inspection under subsection two or three of this section may take samples of any substances or mixtures of substances being in, on, or in the vicinity of the ship or place on land inspected, and require  
35 the master of such ship or the occupier of such place on land, or a person representing such master or such occupier, to certify

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certify the taking of such samples, and require the testing of any equipment or apparatus in such ship or on such place on land, the condition or efficiency of which he considers relevant to the discharge or suspected discharge.

5 (5) Any person who assaults, resists, hinders or obstructs any person acting in the exercise of any power conferred by virtue of this section, or who fails to comply with any requirement duly made under this section, shall be guilty of an offence against this Act and shall be liable to a penalty  
10 not exceeding two hundred pounds.

12. (1) The Board in such places as it deems necessary may provide facilities for enabling ships to dispose of oil residues, or may join with any other person including the Crown in providing such facilities, or may arrange for the  
15 provision of such facilities by any other person including the Crown.

(2) The Governor, on the recommendation of the Board, may make regulations fixing charges and imposing conditions in respect of the use of any such facilities.

20 (3) Any such facilities shall be open to all ships for the disposal of oil residues on payment of such charges and subject to compliance with such conditions as may be fixed and imposed in accordance with subsection two of this section :

25 Provided that—

- (a) ships disposing of oil residues for purposes of under-going repairs and tankers shall not be entitled as of right to use such facilities;
- (b) such facilities shall not be available as of right for  
30 the disposal of any mixture containing oil which has not been subjected to an effective process for separating the oil from such mixture.

(4)



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(4) The Board may require the owner or occupier of any oil terminal, oil depot, oil installation or other similar establishment used for the loading or unloading of oil in bulk and the owner or occupier of any establishment at which 5 ships are repaired or any other work is performed in relation to ships involving the disposal of oil residues—

- 10 (a) to provide facilities of a standard satisfactory to the Board for the disposal of oil residues by ships berthed, docked or otherwise being at any such establishment;
- (b) to maintain such facilities in good order and condition;
- (c) to make such facilities available for enabling ships to dispose of such oil residues.

15 **13.** (1) No oil shall be transferred between sunset and sunrise from or to a ship (whether to or from a place on land or to or from another ship) in any waters within the jurisdiction unless notice of such transfer has been given to, and permission in writing obtained from, the harbour master or 20 other person having charge of those waters, or the Board.

Restrictions on transfer of oil at night.

(2) In the case of a transfer of oil to be performed at a place where such transfers are frequently and regularly carried out, the notice may be a general notice that transfers will be carried out within a period specified in the notice, and 25 the permission may be general and subject to such conditions as the harbour master or other person having charge of those waters, or the Board, thinks fit.

(3) If any oil is transferred to or from any ship in contravention of this section, or if any condition attached to 30 any permission given is not observed, the master of the ship, and, if the oil is transferred from or to a place on land, the occupier of that place, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds.

**14.**

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**14.** (1) The Board with the approval of the Governor <sup>Regulations.</sup> may, subject to subsection two of section twelve of this Act, make regulations not inconsistent with this Act prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may prescribe penalties not exceeding five hundred pounds for offences against the regulations.

10 (3) The regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication or from a later date to be specified in the regulations; and

15 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

20 (4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before the House disallowing any regulation or part thereof, the regulation or part thereupon ceases to have effect.

25 (5) The regulations under this Act may be made either as respects all, or as respects any one or more, of the classes of ships, or other matters, to which the regulations relate; and different provisions may be made by any such regulations as respects different classes of ships, or otherwise as respects different classes of cases or different circumstances.

30 **15.** (1) Any person appointed by the Board to report to it regarding the proper observance of, and the adequacy of, the prohibitions, restrictions and obligations imposed by virtue of this Act may go on board any ship, or may enter any place on land, and may inspect any records required to be kept <sup>Inspection and report.</sup>



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kept under this Act and may cause any entry in such records to be copied and require the person by whom the records are to be kept to certify the copy as a true copy of such entry, and may inspect and test any equipment required to be fitted  
5 pursuant to this Act and may require any person in or upon or concerned with such ship or place on land to answer such questions and require the production of such books, papers or documents which he considers relevant to the purpose of his report.

10 (2) Any person who assaults, resists, hinders or obstructs any person acting in the exercise of any power conferred by or under this section, or who fails to comply with any requirement duly made under this section, or who  
15 in giving any answer required under this section makes a statement which is false or misleading in any particular, shall be guilty of an offence against this Act and be liable to a penalty not exceeding two hundred pounds.

16. (1) Where, in regard to any requirement prescribed by regulations made under this Act, the Board is satisfied—

Dispensa-  
tions and  
exemptions.

- 20 (a) that the requirement has been substantially complied with; or
- (b) that compliance with the requirement is, in the circumstances of the case, impracticable or unnecessary; or
- 25 (c) that the action taken or provision made as regards the subject matter of the requirement is as effective as, or more effective than, actual compliance with the requirement,

it may direct that compliance with that requirement be  
30 dispensed with.

(2) The Board may exempt any ship or class of ship from any of the provisions of this Act or of any regulations made thereunder :

Provided that no exemption whatsoever shall be granted  
35 in any case from the provisions of section six of this Act.

(3)



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(3) Whenever any dispensation has been directed or any exemption has been granted under this section, the Board may, at the same time or any time thereafter, impose in consideration of such dispensation or exemption any conditions which it deems appropriate, and may vary or revoke the same, and a breach of any such condition shall incur the same penalties and consequences as a breach of the statutory provision or regulation from which the dispensation or exemption was directed or granted.

(4) Any dispensation or exemption directed or granted under this section may be revoked by the Board at any time.

**17.** In any proceedings under this Act—

Admissible  
evidence.

(a) any records required to be kept by this Act or any regulations made thereunder or by any laws of any Contracting Government to the Convention for the carrying out of the purposes of the Convention shall be prima facie evidence of the facts stated in those records;

(b) any copy of an entry in such records, which is certified by the person by whom such records are required to be kept to be a true copy of the entry, shall be prima facie evidence of the facts stated in the entry;

(c) any document purporting to be records kept in pursuance of any of the requirements referred to in this section or purporting to be such a certified copy as is mentioned in paragraph (b) of this section shall, in the absence of evidence to the contrary, be deemed to be such records or such a certified copy as the case may be.

**18.** (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Proceed-  
ings for  
offences.

(2) All penalties, recovered for any offence under this Act or the regulations, shall be paid into the funds of the Board.

**19.**



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*Prevention of Oil Pollution of Navigable Waters.*

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19. Any prosecution or legal proceedings taken under this Act by an officer of the Board shall be deemed to have been taken by or under the direction or authority of the Board and section thirty-four of the Maritime Services Act, 1935, as amended by subsequent Acts, shall apply, mutatis mutandis, thereto.

Proof of certain matters not required.

20. A statement in writing purporting to be signed by the Secretary or Acting Secretary to the Board—

Evidence of administrative acts.

10 (a) that any person has been generally or specially appointed by the Board—

(i) to carry out all or any of the inspections and tests referred to in section nine of this Act; or

15 (ii) to investigate any discharge or suspected discharge of oil or of a mixture containing oil under section eleven of this Act; or

20 (iii) to report to it regarding the proper observance of, and the adequacy of, the prohibitions, restrictions and obligations imposed, under section fifteen of this Act; or

25 (b) that any dispensation has been directed, any exemption has been granted, or any conditions have been imposed by the Board in consideration of such dispensation or exemption, any variation or revocation of such conditions, or the revocation of any exemption granted or dispensation directed has been made, under section sixteen of this Act,

shall be prima facie evidence of the matters stated therein.

ARTICLE III. JUDICIAL POWER.

Section 1. The judicial power of this State shall be vested in the Supreme Court, the Courts of Appeals, the District Courts, and the County Courts. The Justices of the Supreme Court and the Justices of the Courts of Appeals shall be elected by the voters of this State for a term of ten years, and shall be eligible for re-election.

Section 2. The Justices of the Supreme Court and the Justices of the Courts of Appeals shall be elected by the voters of this State for a term of ten years, and shall be eligible for re-election.

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Section 11. The Justices of the Supreme Court and the Justices of the Courts of Appeals shall be elected by the voters of this State for a term of ten years, and shall be eligible for re-election.



No. , 1960.

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# A BILL

Relating to the prevention of the pollution of navigable waters by oil; to repeal the Oil in Navigable Waters Act, 1927; and for purposes connected therewith.

[MR. RENSHAW;—13 *October*, 1960.]

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Prevention of Oil Pollution of Navigable Waters Act, 1960".
- (2) Short title and commencement.



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*Prevention of Oil Pollution of Navigable Waters.*

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Oil in Navigable Waters Act, 1927, is hereby Repeal.  
5 repealed.

3. (1) This Act shall bind the Crown.

Act to  
bind Crown.

(2) This Act shall apply to all ships within the juris- Application.  
diction : Provided that sections nine, ten and fifteen of this  
Act shall not apply to ships trading, or proceeding, to or from  
10 a port outside the jurisdiction.

4. (1) In this Act, unless the context or subject matter Definitions.  
otherwise indicates or requires,—

“Board” means The Maritime Services Board of New  
South Wales.

15 “Discharge” means any discharge or escape, howsoever  
caused.

“Master” includes every person having lawfully or de  
facto the command, charge or management of a  
ship for the time being.

20 “Mixture containing oil” means a mixture of oil, as herein  
defined, with water or any other substance.

“Occupier” in relation to a place on land means the person  
exercising by himself, his servants or agents any  
right of occupation thereof, or if it has no occupier  
25 means the owner thereof, and in relation to a vehicle  
includes the person in charge thereof and the owner  
thereof and not the occupier of the land on or over  
which such vehicle stands or moves.

30 “Oil” means oil of any description and includes spirit  
produced therefrom and coal tar.

“Oil residues” means those parts of a mixture containing  
oil which remain after undergoing a separation  
process.

“Place



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*Prevention of Oil Pollution of Navigable Waters.*

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5 "Place on land" includes any structure or apparatus on, and any thing or vehicle resting on or moving over, any land, and anything resting on or lying under the bed or shores of any navigable waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of any navigable waters.

"Prescribed" means prescribed by this Act or the regulations thereunder.

10 "Regulations" means regulations made under this Act.

"Ship" includes every description of vessel or craft.

"Tanker" means a ship constructed or adapted for carrying a cargo of oil in bulk.

15 "The Convention" means the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and includes that Convention as amended by any amendment accepted by Australia.

20 "The jurisdiction" means the sea lying within the territorial limits, the ports and tidal rivers, and the inland navigable waters of New South Wales.

(2) Any discharge of oil, or of any mixture containing oil, onto or into any lands or waters, or any structure or thing, having the result that the whole or any part of such oil or mixture containing oil eventually enters any waters within 25 the jurisdiction, is for all purposes under this Act a discharge into such waters within the jurisdiction of the said oil or mixture containing oil, or of so much of the same as enters the said waters within the jurisdiction.

5. (1) This Act shall be read and construed subject to the Saving. 30 Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons 35 or circumstances, shall not be affected.

(2)



*Prevention of Oil Pollution of Navigable Waters.*

(2) The provisions of this Act shall be read and construed as being in addition to and not in derogation of or in substitution for any provisions contained in any other Act or in any by-laws, ordinances or regulations made thereunder.

5 6. If any discharge of oil, or of any mixture containing oil, into any waters within the jurisdiction occurs from any ship, or from any place on land, or from any apparatus used for transferring oil from or to any ship (whether to or from a place on land or to or from another ship) then subject to the 10 provisions of this Act—

Discharge  
of oil into  
waters.

(a) if the discharge is from a ship, both the owner and the master of the ship, or

(b) if the discharge is from a place on land, the occupier of that place, or

15 (c) if the discharge is from apparatus used for transferring oil from or to a ship, the person in charge of the apparatus,

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one thousand pounds.

20 7. (1) Where the owner or master of a ship is charged with an offence against section six of this Act it shall be a defence to prove—

Special  
defences.

25 (a) that the discharge of oil or mixture containing oil was necessary for the purpose of securing the safety of the ship, or of preventing damage to the ship or cargo or of saving life, and was a reasonable step to take in the circumstances;

(b) that the oil or mixture containing oil escaped—

30 (i) in consequence of damage to the ship and that all reasonable steps were taken after the occurrence of the damage for stopping or reducing the escape of the oil or mixture; or  
(ii)



*Prevention of Oil Pollution of Navigable Waters.*

5 (ii) in consequence of leakage which could not have been avoided, foreseen or anticipated and that all reasonable steps were taken for prompt discovery of the leakage and after such discovery for stopping or reducing the escape of the oil or mixture.

10 (2) Where the occupier of a place on land, or the person in charge of any apparatus, is charged with an offence under section six of this Act it shall be a defence to prove that the escape of the oil or mixture containing oil was due to accident which could not have been avoided, foreseen or anticipated, and that all reasonable steps were taken for prompt discovery of the escape of the oil or mixture and after such discovery for stopping or reducing such escape.

15 **8.** (1) Where any discharge of oil or of any mixture containing oil occurs as referred to in section six of this Act, the Board may take such action as it deems appropriate to remove, disperse, destroy or mitigate the pollution caused by the oil so discharged, or the oil contained in any mixture so  
20 discharged, or any substance other than water contained in any such mixture, and may recover all costs and expenses incurred in and about such removal, dispersal, destruction or mitigation from either the owner or master of the vessel from which the discharge occurs, or from the occupier of  
25 the place on land from which the discharge occurs or from the person in charge of the apparatus from which the discharge occurs, as the case may require.

Removal  
of oil  
pollution.

(2) Such costs and expenses may be recovered as a debt in any court of competent jurisdiction.

30 (3) Proceedings under this section shall be in addition to and not in derogation of or in substitution for any proceedings which may be taken apart from this section.



*Prevention of Oil Pollution of Navigable Waters.*

9. (1) Every ship shall be fitted with such equipment for the prevention of the discharge of oil and of any mixture containing oil into any waters within the jurisdiction and shall comply with such requirements relating or incidental  
5 to such prevention as may be prescribed by regulations made by the Board with the approval of the Governor.

Equipment  
in ships to  
prevent oil  
pollution.

(2) Where any regulations made pursuant to this section require ships to be fitted with prescribed equipment the regulations may provide—

- 10 (a) for inspection of ships to which the regulations apply by persons appointed by the Board for that purpose;
- (b) that prescribed equipment shall not be installed in a ship to which the regulations apply unless it is of a type tested and approved by a person appointed  
15 by the Board for that purpose;
- (c) that equipment so tested and approved, while installed in such a ship shall not be treated as satisfying the requirements of the regulations unless, at such times as may be prescribed, it is tested and  
20 approved by a person appointed by the Board for that purpose; and
- (d) for payment of such fees for the inspection provided for in paragraph (a) of this subsection and the carrying out of tests provided for in  
25 paragraphs (b) and (c) of this subsection as may be prescribed.

(3) If, in the case of any ship, the provisions of any regulations under this section which apply to that ship are contravened, both the owner and the master of the ship shall  
30 be guilty of an offence against this Act and shall be liable to a penalty not exceeding five hundred pounds.

10. (1) The Board with the approval of the Governor may make regulations requiring the owner of a ship or the occupier of a place on land to keep or cause to be kept such  
35 records of the nature hereinafter described, and such other records, for the purposes of this Act, as may be prescribed.

Keeping  
of oil  
records.

(2)



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*Prevention of Oil Pollution of Navigable Waters.*

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(2) The regulations may require the owner of a ship to keep or cause to be kept records—

- 5 (a) of any occasion on which oil or a mixture containing oil is discharged from such ship for the purpose of securing its safety or of preventing damage to such ship or cargo or of saving life;
- 10 (b) of any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from such ship in consequence of damage to such ship or by reason of leakage;
- (c) of the carrying out, on board or in connection with such ship, of such operations as may be prescribed, including operations relating to—
  - 15 (i) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks;
  - (ii) the separation of oil from water, or from other substances, in any mixture containing oil;
  - 20 (iii) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in subparagraphs (i) and (ii) of this paragraph; and
  - (iv) the disposal of any other oil residues;
- 25 (d) relating to the transfer of oil to or from such ship.

(3) The regulations may require the occupier of any place on land to keep or cause to be kept records relating to—

- 30 (a) the transfer of oil or a mixture containing oil from or to any ship and to, from, or through such place on land;
- (b) the operation of facilities provided at such place on land for the disposal of oil residues from any ship; and
- (c)



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*Prevention of Oil Pollution of Navigable Waters.*

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- (c) any discharge of oil or a mixture containing oil occurring in the course of or in connection with any such transfer of oil or disposal of oil residues.
- (4) The regulations may—
- 5 (a) prescribe the form in which such records shall be kept and the nature of the entries to be made therein;
- (b) require the person keeping such records to retain them for a prescribed period;
- 10 (c) require that person, at the end of the prescribed period, to transmit such records to a place or person determined by or under the regulations;
- (d) provide for the custody or disposal of such records after their transmission to such place or person.
- 15 (5) Any person who makes any entry in any records required to be kept pursuant to this section which is to his knowledge false or misleading in any particular shall be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred pounds.
- 20 **11.** (1) If any discharge of oil, or of any mixture containing oil, occurs from any ship or from any place on land into any waters within the jurisdiction, the owner and master of the ship from which such discharge occurs or the occupier of the place on land from which such discharge occurs shall
- 25 forthwith inform the Board of all details of the occurrence, and, if he fails to do so, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds.
- (2) The harbour master of any port, or any officer
- 30 or employee of the Board having charge of any district, or any other person appointed for that purpose by the Board may where any discharge of oil or any mixture containing oil into
- any

Report-  
ing and  
investiga-  
tion of  
discharges  
of oil, etc.



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*Prevention of Oil Pollution of Navigable Waters.*

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any waters within the jurisdiction occurs or where he has reasonable cause to suspect that any such discharge has occurred—

- 5 (a) go on board and inspect any ship being within the jurisdiction;
- 10 (b) inspect any records required to be kept in respect of such ship by this Act or any regulations made thereunder, or by any laws of any Contracting Government to the Convention for the carrying out of the purposes of the Convention;
- 15 (c) if such records are kept in a language other than English, be accompanied and assisted by an interpreter; and
- (d) cause any entry in any such records to be copied and require the person by whom the records are to be kept to certify the copy as a true copy of the entry:

Provided that a person exercising any powers conferred by this section shall not unnecessarily detain or delay the ship 20 from proceeding on any voyage.

(3) Any person appointed in that behalf by the Board may, where any discharge of oil or mixture containing oil from any place on land into any waters within the jurisdiction has occurred or where he has reasonable cause to suspect that 25 any such discharge has occurred, enter and inspect such place on land, inspect any records required to be kept under this Act in respect of such place, cause any entry in any such records to be copied and require the person by whom the records are to be kept to certify the copy as a true copy of 30 the entry.

(4) Any person making an inspection under subsection two or three of this section may take samples of any substances or mixtures of substances being in, on, or in the vicinity of the ship or place on land inspected, and require 35 the master of such ship or the occupier of such place on land, or a person representing such master or such occupier, to certify



*Prevention of Oil Pollution of Navigable Waters.*

certify the taking of such samples, and require the testing of any equipment or apparatus in such ship or on such place on land, the condition or efficiency of which he considers relevant to the discharge or suspected discharge.

5 (5) Any person who assaults, resists, hinders or obstructs any person acting in the exercise of any power conferred by virtue of this section, or who fails to comply with any requirement duly made under this section, shall be guilty of an offence against this Act and shall be liable to a penalty  
10 not exceeding two hundred pounds.

12. (1) The Board in such places as it deems necessary Oil  
may provide facilities for enabling ships to dispose of oil <sup>reception</sup> residues, or may join with any other person including the <sup>facilities.</sup> Crown in providing such facilities, or may arrange for the  
15 provision of such facilities by any other person including the Crown.

(2) The Governor, on the recommendation of the Board, may make regulations fixing charges and imposing conditions in respect of the use of any such facilities.

20 (3) Any such facilities shall be open to all ships for the disposal of oil residues on payment of such charges and subject to compliance with such conditions as may be fixed and imposed in accordance with subsection two of this section :

25 Provided that—

- (a) ships disposing of oil residues for purposes of undergoing repairs and tankers shall not be entitled as of right to use such facilities;
- (b) such facilities shall not be available as of right for  
30 the disposal of any mixture containing oil which has not been subjected to an effective process for separating the oil from such mixture.

(4)



*Prevention of Oil Pollution of Navigable Waters.*

(4) The Board may require the owner or occupier of any oil terminal, oil depot, oil installation or other similar establishment used for the loading or unloading of oil in bulk and the owner or occupier of any establishment at which ships are repaired or any other work is performed in relation to ships involving the disposal of oil residues—

- (a) to provide facilities of a standard satisfactory to the Board for the disposal of oil residues by ships berthed, docked or otherwise being at any such establishment;
- (b) to maintain such facilities in good order and condition;
- (c) to make such facilities available for enabling ships to dispose of such oil residues.

15 **13.** (1) No oil shall be transferred between sunset and sunrise from or to a ship (whether to or from a place on land or to or from another ship) in any waters within the jurisdiction unless notice of such transfer has been given to, and permission in writing obtained from, the harbour master or other person having charge of those waters, or the Board.

Restrictions on transfer of oil at night.

(2) In the case of a transfer of oil to be performed at a place where such transfers are frequently and regularly carried out, the notice may be a general notice that transfers will be carried out within a period specified in the notice, and the permission may be general and subject to such conditions as the harbour master or other person having charge of those waters, or the Board, thinks fit.

(3) If any oil is transferred to or from any ship in contravention of this section, or if any condition attached to any permission given is not observed, the master of the ship, and, if the oil is transferred from or to a place on land, the occupier of that place, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds.

**14.**



*Prevention of Oil Pollution of Navigable Waters.*

14. (1) The Board with the approval of the Governor <sup>Regulations.</sup> may, subject to subsection two of section twelve of this Act, make regulations not inconsistent with this Act prescribing all matters that by this Act are required or permitted to be  
5 prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may prescribe penalties not exceeding five hundred pounds for offences against the regulations.

10 (3) The regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication or from a later date to be specified in the regulations; and

15 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

20 (4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before the House disallowing any regulation or part thereof, the regulation or part thereupon ceases to have effect.

25 (5) The regulations under this Act may be made either as respects all, or as respects any one or more, of the classes of ships, or other matters, to which the regulations relate; and different provisions may be made by any such regulations as respects different classes of ships, or otherwise as respects different classes of cases or different circumstances.

30 15. (1) Any person appointed by the Board to report to it regarding the proper observance of, and the adequacy of, the prohibitions, restrictions and obligations imposed by virtue of this Act may go on board any ship, or may enter any place on land, and may inspect any records required to be  
Inspection and report.  
kept



*Prevention of Oil Pollution of Navigable Waters.*

kept under this Act and may cause any entry in such records to be copied and require the person by whom the records are to be kept to certify the copy as a true copy of such entry, and may inspect and test any equipment required to be fitted  
5 pursuant to this Act and may require any person in or upon or concerned with such ship or place on land to answer such questions and require the production of such books, papers or documents which he considers relevant to the purpose of his report.

10 (2) Any person who assaults, resists, hinders or obstructs any person acting in the exercise of any power conferred by or under this section, or who fails to comply with any requirement duly made under this section, or who in giving any answer required under this section makes a  
15 statement which is false or misleading in any particular, shall be guilty of an offence against this Act and be liable to a penalty not exceeding two hundred pounds.

16. (1) Where, in regard to any requirement prescribed by regulations made under this Act, the Board is satisfied—

Dispensa-  
tions and  
exemptions.

- 20 (a) that the requirement has been substantially complied with; or
- (b) that compliance with the requirement is, in the circumstances of the case, impracticable or unnecessary; or
- 25 (c) that the action taken or provision made as regards the subject matter of the requirement is as effective as, or more effective than, actual compliance with the requirement,

it may direct that compliance with that requirement be  
30 dispensed with.

(2) The Board may exempt any ship or class of ship from any of the provisions of this Act or of any regulations made thereunder :

Provided that no exemption whatsoever shall be granted  
35 in any case from the provisions of section six of this Act.

(3)



*Prevention of Oil Pollution of Navigable Waters.*

(3) Whenever any dispensation has been directed or any exemption has been granted under this section, the Board may, at the same time or any time thereafter, impose in consideration of such dispensation or exemption any conditions which it deems appropriate, and may vary or revoke the same, and a breach of any such condition shall incur the same penalties and consequences as a breach of the statutory provision or regulation from which the dispensation or exemption was directed or granted.

(4) Any dispensation or exemption directed or granted under this section may be revoked by the Board at any time.

**17.** In any proceedings under this Act—

Admissible evidence.

(a) any records required to be kept by this Act or any regulations made thereunder or by any laws of any Contracting Government to the Convention for the carrying out of the purposes of the Convention shall be prima facie evidence of the facts stated in those records;

(b) any copy of an entry in such records, which is certified by the person by whom such records are required to be kept to be a true copy of the entry, shall be prima facie evidence of the facts stated in the entry;

(c) any document purporting to be records kept in pursuance of any of the requirements referred to in this section or purporting to be such a certified copy as is mentioned in paragraph (b) of this section shall, in the absence of evidence to the contrary, be deemed to be such records or such a certified copy as the case may be.

**18.** (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

Proceedings for offences.

(2) All penalties, recovered for any offence under this Act or the regulations, shall be paid into the funds of the Board.

**19.**



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*Prevention of Oil Pollution of Navigable Waters.*

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19. Any prosecution or legal proceedings taken under this Act by an officer of the Board shall be deemed to have been taken by or under the direction or authority of the Board and section thirty-four of the Maritime Services Act, 1935, as amended by subsequent Acts, shall apply, mutatis mutandis, thereto.

Proof of certain matters not required.

20. A statement in writing purporting to be signed by the Secretary or Acting Secretary to the Board—

Evidence of administrative acts.

10 (a) that any person has been generally or specially appointed by the Board—

(i) to carry out all or any of the inspections and tests referred to in section nine of this Act; or

15 (ii) to investigate any discharge or suspected discharge of oil or of a mixture containing oil under section eleven of this Act; or

20 (iii) to report to it regarding the proper observance of, and the adequacy of, the prohibitions, restrictions and obligations imposed, under section fifteen of this Act; or

25 (b) that any dispensation has been directed, any exemption has been granted, or any conditions have been imposed by the Board in consideration of such dispensation or exemption, any variation or revocation of such conditions, or the revocation of any exemption granted or dispensation directed has been made, under section sixteen of this Act,

shall be prima facie evidence of the matters stated therein.

Section 10 of the Copyright Act, 1957

10. Any person who, in relation to any work, does or causes to be done any of the following things shall be deemed to have infringed the copyright in that work...

(a) copies of the work are made, sold, or distributed in violation of the provisions of section 17...

(b) any article, record, or tape is made, sold, or distributed in violation of the provisions of section 17...

(c) any article, record, or tape is made, sold, or distributed in violation of the provisions of section 17...

(d) any article, record, or tape is made, sold, or distributed in violation of the provisions of section 17...

(e) any article, record, or tape is made, sold, or distributed in violation of the provisions of section 17...

(f) any article, record, or tape is made, sold, or distributed in violation of the provisions of section 17...

(g) any article, record, or tape is made, sold, or distributed in violation of the provisions of section 17...

(h) any article, record, or tape is made, sold, or distributed in violation of the provisions of section 17...

(i) any article, record, or tape is made, sold, or distributed in violation of the provisions of section 17...

(j) any article, record, or tape is made, sold, or distributed in violation of the provisions of section 17...



# PREVENTION OF OIL POLLUTION OF NAVIGABLE WATERS BILL, 1960.

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## EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to give effect within the jurisdiction to the terms of the International Convention for the Prevention of Pollution of the Sea by Oil as regards the installing of oil separating equipment on, and the keeping of oil records by, intrastate ships and the provision of reception facilities for oil residues ;
- (b) to authorise the Maritime Services Board to make regulations for, and to supervise, the installation of such equipment and the keeping of such records and to make other regulations for the purposes of the Bill ;
- (c) to authorise the Board to provide or arrange for the provision of reception facilities for oil residues and to recommend the charges and conditions to be fixed by regulation for their use ;
- (d) to repeal the Oil in Navigable Waters Act, 1927, and to re-enact in form modified to agree with the abovementioned Convention the provisions of that Act regarding the discharge of oil into territorial waters, for which a penalty up to £1,000 is provided, the transfer of oil between sunset and sunrise, and the right of inspection of vessels and premises ;
- (e) to authorise recovery of the cost of removing or treating oil discharged into navigable waters from the owner or master of the vessel, the occupier of the place on land, or the person in charge of the apparatus from which the discharge takes place ;
- (f) to provide for use in evidence of records kept by vessels pursuant to the abovementioned Convention ; and
- (g) to make provision for matters incidental to the foregoing.

PREVENTION OF OIL POLLUTION OF NAVIGABLE WATERS  
BILL, 1960

EXPLANATORY NOTE

The object of this Bill is to give effect within the jurisdiction to the terms of the International Convention for the Prevention of Pollution of the Sea by Oil as regards the liability in oil separating equipment and the keeping of oil records by tankers and the provision of equipment for oil tankers.

It is intended that the Bill should be brought into force as soon as possible after the coming into force of the Convention and the Convention will be applied to oil tankers as from the date of its coming into force.

The Bill is divided into four parts. Part I contains the provisions relating to the liability of the shipowner and the provisions relating to the equipment for oil tankers and the keeping of oil records. Part II contains the provisions relating to the equipment for oil tankers. Part III contains the provisions relating to the equipment for oil tankers. Part IV contains the provisions relating to the equipment for oil tankers.

The Bill is intended to be brought into force as soon as possible after the coming into force of the Convention and the Convention will be applied to oil tankers as from the date of its coming into force.

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The Bill is intended to be brought into force as soon as possible after the coming into force of the Convention and the Convention will be applied to oil tankers as from the date of its coming into force.

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The Bill is intended to be brought into force as soon as possible after the coming into force of the Convention and the Convention will be applied to oil tankers as from the date of its coming into force.



No. , 1960.

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# A BILL

Relating to the prevention of the pollution of navigable waters by oil; to repeal the Oil in Navigable Waters Act, 1927; and for purposes connected therewith.

[MR. RENSCHAW;—13 October, 1960.]

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Prevention of Oil Pollution of Navigable Waters Act, 1960".
- (2) Short title and commencement.



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*Prevention of Oil Pollution of Navigable Waters.*

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. The Oil in Navigable Waters Act, 1927, is hereby Repealed.  
5 repealed.

3. (1) This Act shall bind the Crown.

Act to  
bind Crown.

(2) This Act shall apply to all ships within the jurisdiction: Provided that sections nine, ten and fifteen of this Act shall not apply to ships trading, or proceeding, to or from a port outside the jurisdiction.

Application.

4. (1) In this Act, unless the context or subject matter otherwise indicates or requires,—

Definitions.

“Board” means The Maritime Services Board of New South Wales.

15 “Discharge” means any discharge or escape, howsoever caused.

“Master” includes every person having lawfully or de facto the command, charge or management of a ship for the time being.

20 “Mixture containing oil” means a mixture of oil, as herein defined, with water or any other substance.

25 “Occupier” in relation to a place on land means the person exercising by himself, his servants or agents any right of occupation thereof, or if it has no occupier means the owner thereof, and in relation to a vehicle includes the person in charge thereof and the owner thereof and not the occupier of the land on or over which such vehicle stands or moves.

30 “Oil” means oil of any description and includes spirit produced therefrom and coal tar.

“Oil residues” means those parts of a mixture containing oil which remain after undergoing a separation process.

“Place



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*Prevention of Oil Pollution of Navigable Waters.*

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5 "Place on land" includes any structure or apparatus on, and any thing or vehicle resting on or moving over, any land, and anything resting on or lying under the bed or shores of any navigable waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of any navigable waters.

"Prescribed" means prescribed by this Act or the regulations thereunder.

10 "Regulations" means regulations made under this Act.

"Ship" includes every description of vessel or craft.

"Tanker" means a ship constructed or adapted for carrying a cargo of oil in bulk.

15 "The Convention" means the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and includes that Convention as amended by any amendment accepted by Australia.

20 "The jurisdiction" means the sea lying within the territorial limits, the ports and tidal rivers, and the inland navigable waters of New South Wales.

(2) Any discharge of oil, or of any mixture containing oil, onto or into any lands or waters, or any structure or thing, having the result that the whole or any part of such oil or mixture containing oil eventually enters any waters within 25 the jurisdiction, is for all purposes under this Act a discharge into such waters within the jurisdiction of the said oil or mixture containing oil, or of so much of the same as enters the said waters within the jurisdiction.

5. (1) This Act shall be read and construed subject to the Saving. 30 Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons 35 or circumstances, shall not be affected.

(2)



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*Prevention of Oil Pollution of Navigable Waters.*

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(2) The provisions of this Act shall be read and construed as being in addition to and not in derogation of or in substitution for any provisions contained in any other Act or in any by-laws, ordinances or regulations made thereunder.

5 6. If any discharge of oil, or of any mixture containing oil, into any waters within the jurisdiction occurs from any ship, or from any place on land, or from any apparatus used for transferring oil from or to any ship (whether to or from a place on land or to or from another ship) then subject to the provisions of this Act—

Discharge  
of oil into  
waters.

- 10 (a) if the discharge is from a ship, both the owner and the master of the ship, or
- (b) if the discharge is from a place on land, the occupier of that place, or
- 15 (c) if the discharge is from apparatus used for transferring oil from or to a ship, the person in charge of the apparatus,

shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one thousand pounds.

20 7. (1) Where the owner or master of a ship is charged with an offence against section six of this Act it shall be a defence to prove—

Special  
defences.

25 (a) that the discharge of oil or mixture containing oil was necessary for the purpose of securing the safety of the ship, or of preventing damage to the ship or cargo or of saving life, and was a reasonable step to take in the circumstances;

(b) that the oil or mixture containing oil escaped—

30 (i) in consequence of damage to the ship and that all reasonable steps were taken after the occurrence of the damage for stopping or reducing the escape of the oil or mixture; or  
(ii)



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*Prevention of Oil Pollution of Navigable Waters.*

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5 (ii) in consequence of leakage which could not have been avoided, foreseen or anticipated and that all reasonable steps were taken for prompt discovery of the leakage and after such discovery for stopping or reducing the escape of the oil or mixture.

10 (2) Where the occupier of a place on land, or the person in charge of any apparatus, is charged with an offence under section six of this Act it shall be a defence to prove that the escape of the oil or mixture containing oil was due to accident which could not have been avoided, foreseen or anticipated, and that all reasonable steps were taken for prompt discovery of the escape of the oil or mixture and after such discovery for stopping or reducing such escape.

15 **8.** (1) Where any discharge of oil or of any mixture containing oil occurs as referred to in section six of this Act, the Board may take such action as it deems appropriate to remove, disperse, destroy or mitigate the pollution caused by the oil so discharged, or the oil contained in any mixture so  
20 discharged, or any substance other than water contained in any such mixture, and may recover all costs and expenses incurred in and about such removal, dispersal, destruction or mitigation from either the owner or master of the vessel from which the discharge occurs, or from the occupier of  
25 the place on land from which the discharge occurs or from the person in charge of the apparatus from which the discharge occurs, as the case may require.

Removal  
of oil  
pollution.

(2) Such costs and expenses may be recovered as a debt in any court of competent jurisdiction.

30 (3) Proceedings under this section shall be in addition to and not in derogation of or in substitution for any proceedings which may be taken apart from this section.



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*Prevention of Oil Pollution of Navigable Waters.*

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9. (1) Every ship shall be fitted with such equipment Equipment in ships to prevent oil pollution. for the prevention of the discharge of oil and of any mixture containing oil into any waters within the jurisdiction and shall comply with such requirements relating or incidental  
5 to such prevention as may be prescribed by regulations made by the Board with the approval of the Governor.

(2) Where any regulations made pursuant to this section require ships to be fitted with prescribed equipment the regulations may provide—

- 10 (a) for inspection of ships to which the regulations apply by persons appointed by the Board for that purpose ;
- (b) that prescribed equipment shall not be installed in a ship to which the regulations apply unless it is of a type tested and approved by a person appointed  
15 by the Board for that purpose ;
- (c) that equipment so tested and approved, while installed in such a ship shall not be treated as satisfying the requirements of the regulations unless, at such times as may be prescribed, it is tested and  
20 approved by a person appointed by the Board for that purpose ; and
- (d) for payment of such fees for the inspection provided for in paragraph (a) of this subsection and the carrying out of tests provided for in  
25 paragraphs (b) and (c) of this subsection as may be prescribed.

(3) If, in the case of any ship, the provisions of any regulations under this section which apply to that ship are contravened, both the owner and the master of the ship shall  
30 be guilty of an offence against this Act and shall be liable to a penalty not exceeding five hundred pounds.

10. (1) The Board with the approval of the Governor Keeping of oil records. may make regulations requiring the owner of a ship or the occupier of a place on land to keep or cause to be kept such  
35 records of the nature hereinafter described, and such other records, for the purposes of this Act, as may be prescribed.

(2)



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*Prevention of Oil Pollution of Navigable Waters.*

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(2) The regulations may require the owner of a ship to keep or cause to be kept records—

- 5 (a) of any occasion on which oil or a mixture containing oil is discharged from such ship for the purpose of securing its safety or of preventing damage to such ship or cargo or of saving life;
- 10 (b) of any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from such ship in consequence of damage to such ship or by reason of leakage;
- 15 (c) of the carrying out, on board or in connection with such ship, of such operations as may be prescribed, including operations relating to—
  - 15 (i) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks;
  - 20 (ii) the separation of oil from water, or from other substances, in any mixture containing oil;
  - 20 (iii) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in subparagraphs (i) and (ii) of this paragraph; and
  - 25 (iv) the disposal of any other oil residues;
- 25 (d) relating to the transfer of oil to or from such ship.

(3) The regulations may require the occupier of any place on land to keep or cause to be kept records relating to—

- 30 (a) the transfer of oil or a mixture containing oil from or to any ship and to, from, or through such place on land;
- (b) the operation of facilities provided at such place on land for the disposal of oil residues from any ship; and
- (c)



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- (c) any discharge of oil or a mixture containing oil occurring in the course of or in connection with any such transfer of oil or disposal of oil residues.
- (4) The regulations may—
- 5 (a) prescribe the form in which such records shall be kept and the nature of the entries to be made therein;
- (b) require the person keeping such records to retain them for a prescribed period;
- 10 (c) require that person, at the end of the prescribed period, to transmit such records to a place or person determined by or under the regulations;
- (d) provide for the custody or disposal of such records after their transmission to such place or person.
- 15 (5) Any person who makes any entry in any records required to be kept pursuant to this section which is to his knowledge false or misleading in any particular shall be guilty of an offence against this Act and be liable to a penalty not exceeding five hundred pounds.
- 20 **11.** (1) If any discharge of oil, or of any mixture containing oil, occurs from any ship or from any place on land into any waters within the jurisdiction, the owner and master of the ship from which such discharge occurs or the occupier of the place on land from which such discharge occurs shall
- 25 forthwith inform the Board of all details of the occurrence, and, if he fails to do so, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds.
- (2) The harbour master of any port, or any officer
- 30 or employee of the Board having charge of any district, or any other person appointed for that purpose by the Board may where any discharge of oil or any mixture containing oil into any

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any waters within the jurisdiction occurs or where he has reasonable cause to suspect that any such discharge has occurred—

- 5 (a) go on board and inspect any ship being within the jurisdiction ;
- (b) inspect any records required to be kept in respect of such ship by this Act or any regulations made thereunder, or by any laws of any Contracting Government to the Convention for the carrying out of the purposes of the Convention ;
- 10 (c) if such records are kept in a language other than English, be accompanied and assisted by an interpreter ; and
- 15 (d) cause any entry in any such records to be copied and require the person by whom the records are to be kept to certify the copy as a true copy of the entry :

20 Provided that a person exercising any powers conferred by this section shall not unnecessarily detain or delay the ship from proceeding on any voyage.

(3) Any person appointed in that behalf by the Board may, where any discharge of oil or mixture containing oil from any place on land into any waters within the jurisdiction has occurred or where he has reasonable cause to suspect that  
25 any such discharge has occurred, enter and inspect such place on land, inspect any records required to be kept under this Act in respect of such place, cause any entry in any such records to be copied and require the person by whom the records are to be kept to certify the copy as a true copy of  
30 the entry.

(4) Any person making an inspection under subsection two or three of this section may take samples of any substances or mixtures of substances being in, on, or in the vicinity of the ship or place on land inspected, and require  
35 the master of such ship or the occupier of such place on land, or a person representing such master or such occupier, to certify



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certify the taking of such samples, and require the testing of any equipment or apparatus in such ship or on such place on land, the condition or efficiency of which he considers relevant to the discharge or suspected discharge.

5 (5) Any person who assaults, resists, hinders or obstructs any person acting in the exercise of any power conferred by virtue of this section, or who fails to comply with any requirement duly made under this section, shall be guilty of an offence against this Act and shall be liable to a penalty  
10 not exceeding two hundred pounds.

12. (1) The Board in such places as it deems necessary may provide facilities for enabling ships to dispose of oil residues, or may join with any other person including the Crown in providing such facilities, or may arrange for the  
15 provision of such facilities by any other person including the Crown.

(2) The Governor, on the recommendation of the Board, may make regulations fixing charges and imposing conditions in respect of the use of any such facilities.

20 (3) Any such facilities shall be open to all ships for the disposal of oil residues on payment of such charges and subject to compliance with such conditions as may be fixed and imposed in accordance with subsection two of this section :

25 Provided that—

- (a) ships disposing of oil residues for purposes of undergoing repairs and tankers shall not be entitled as of right to use such facilities;
- (b) such facilities shall not be available as of right for  
30 the disposal of any mixture containing oil which has not been subjected to an effective process for separating the oil from such mixture.

(4)



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(4) The Board may require the owner or occupier of any oil terminal, oil depot, oil installation or other similar establishment used for the loading or unloading of oil in bulk and the owner or occupier of any establishment at which  
5 ships are repaired or any other work is performed in relation to ships involving the disposal of oil residues—

- 10 (a) to provide facilities of a standard satisfactory to the Board for the disposal of oil residues by ships berthed, docked or otherwise being at any such establishment;
- (b) to maintain such facilities in good order and condition;
- (c) to make such facilities available for enabling ships to dispose of such oil residues.

15 **13.** (1) No oil shall be transferred between sunset and sunrise from or to a ship (whether to or from a place on land or to or from another ship) in any waters within the jurisdiction unless notice of such transfer has been given to, and permission in writing obtained from, the harbour master or  
20 other person having charge of those waters, or the Board.

Restrictions on transfer of oil at night.

(2) In the case of a transfer of oil to be performed at a place where such transfers are frequently and regularly carried out, the notice may be a general notice that transfers will be carried out within a period specified in the notice, and  
25 the permission may be general and subject to such conditions as the harbour master or other person having charge of those waters, or the Board, thinks fit.

(3) If any oil is transferred to or from any ship in contravention of this section, or if any condition attached to  
30 any permission given is not observed, the master of the ship, and, if the oil is transferred from or to a place on land, the occupier of that place, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding two hundred pounds.



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14. (1) The Board with the approval of the Governor Regulations.  
may, subject to subsection two of section twelve of this Act,  
make regulations not inconsistent with this Act prescribing  
all matters that by this Act are required or permitted to be  
5 prescribed or that are necessary or convenient to be prescribed  
for carrying out or giving effect to this Act.

(2) The regulations may prescribe penalties not  
exceeding five hundred pounds for offences against the  
regulations.

10 (3) The regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication or from a  
later date to be specified in the regulations; and

15 (c) be laid before both Houses of Parliament within  
fourteen sitting days after publication if Parliament  
is then in session, and if not, then within fourteen  
sitting days after the commencement of the next  
session.

20 (4) If either House of Parliament passes a resolution  
of which notice has been given at any time within fifteen  
sitting days after the regulations have been laid before the  
House disallowing any regulation or part thereof, the  
regulation or part thereupon ceases to have effect.

25 (5) The regulations under this Act may be made  
either as respects all, or as respects any one or more, of the  
classes of ships, or other matters, to which the regulations  
relate; and different provisions may be made by any such  
regulations as respects different classes of ships, or otherwise  
as respects different classes of cases or different circumstances.

30 15. (1) Any person appointed by the Board to report to Inspection  
it regarding the proper observance of, and the adequacy of, and report.  
the prohibitions, restrictions and obligations imposed by  
virtue of this Act may go on board any ship, or may enter  
any place on land, and may inspect any records required to be  
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kept under this Act and may cause any entry in such records to be copied and require the person by whom the records are to be kept to certify the copy as a true copy of such entry, and may inspect and test any equipment required to be fitted  
5 pursuant to this Act and may require any person in or upon or concerned with such ship or place on land to answer such questions and require the production of such books, papers or documents which he considers relevant to the purpose of his report.

10 (2) Any person who assaults, resists, hinders or obstructs any person acting in the exercise of any power conferred by or under this section, or who fails to comply with any requirement duly made under this section, or who  
15 in giving any answer required under this section makes a statement which is false or misleading in any particular, shall be guilty of an offence against this Act and be liable to a penalty not exceeding two hundred pounds.

16. (1) Where, in regard to any requirement prescribed by regulations made under this Act, the Board is satisfied— Dispensa-  
tions and  
exemptions.

- 20 (a) that the requirement has been substantially complied with; or
- (b) that compliance with the requirement is, in the circumstances of the case, impracticable or unnecessary; or
- 25 (c) that the action taken or provision made as regards the subject matter of the requirement is as effective as, or more effective than, actual compliance with the requirement,

it may direct that compliance with that requirement be  
30 dispensed with.

(2) The Board may exempt any ship or class of ship from any of the provisions of this Act or of any regulations made thereunder :

Provided that no exemption whatsoever shall be granted  
35 in any case from the provisions of section six of this Act.

(3)



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(3) Whenever any dispensation has been directed or any exemption has been granted under this section, the Board may, at the same time or any time thereafter, impose in consideration of such dispensation or exemption any  
5 conditions which it deems appropriate, and may vary or revoke the same, and a breach of any such condition shall incur the same penalties and consequences as a breach of the statutory provision or regulation from which the dispensation or exemption was directed or granted.

10 (4) Any dispensation or exemption directed or granted under this section may be revoked by the Board at any time.

**17.** In any proceedings under this Act—

Admissible  
evidence.

15 (a) any records required to be kept by this Act or any regulations made thereunder or by any laws of any Contracting Government to the Convention for the carrying out of the purposes of the Convention shall be prima facie evidence of the facts stated in those records;

20 (b) any copy of an entry in such records, which is certified by the person by whom such records are required to be kept to be a true copy of the entry, shall be prima facie evidence of the facts stated in the entry;

25 (c) any document purporting to be records kept in pursuance of any of the requirements referred to in this section or purporting to be such a certified copy as is mentioned in paragraph (b) of this section shall, in the absence of evidence to the  
30 contrary, be deemed to be such records or such a certified copy as the case may be.

**18.** (1) Any penalty imposed by this Act or the regula-  
tions may be recovered in a summary manner before a  
stipendiary magistrate or any two justices in petty sessions.

Proceed-  
ings for  
offences.

35 (2) All penalties, recovered for any offence under this Act or the regulations, shall be paid into the funds of the Board.

**19.**



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19. Any prosecution or legal proceedings taken under this Act by an officer of the Board shall be deemed to have been taken by or under the direction or authority of the Board and section thirty-four of the Maritime Services Act, 1935, as amended by subsequent Acts, shall apply, mutatis mutandis, thereto.

Proof of certain matters not required.

20. A statement in writing purporting to be signed by the Secretary or Acting Secretary to the Board—

Evidence of administrative acts.

10 (a) that any person has been generally or specially appointed by the Board—

(i) to carry out all or any of the inspections and tests referred to in section nine of this Act; or

15 (ii) to investigate any discharge or suspected discharge of oil or of a mixture containing oil under section eleven of this Act; or

20 (iii) to report to it regarding the proper observance of, and the adequacy of, the prohibitions, restrictions and obligations imposed, under section fifteen of this Act; or

25 (b) that any dispensation has been directed, any exemption has been granted, or any conditions have been imposed by the Board in consideration of such dispensation or exemption, any variation or revocation of such conditions, or the revocation of any exemption granted or dispensation directed has been made, under section sixteen of this Act,

shall be prima facie evidence of the matters stated therein.



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19. Any provision or legal proceeding taken under this Act by an officer of the Board shall be deemed to have been taken by or under the direction or authority of the Board and section thirty-four of the Marine Service Act, 1935, as amended by subsequent Acts, shall apply, mutatis mutandis, thereto.

20. A statement in writing purporting to be signed by the Secretary or Acting Secretary to the Board -

(a) that any person has been generally or specially appointed by the Board -

(i) to carry out all or any of the functions and tasks referred to in section thirty of this Act;

(ii) to investigate and report on the operations of any vessel of any class or type, or to conduct any other investigation or inquiry;

(iii) to report on or investigate the operations of any vessel, and the compliance of the vessel with the provisions of the Act, and to recommend any action to be taken thereunder.

(b) that any dispensation has been granted, and that such dispensation has been granted on any conditions have been imposed by the Board in consideration of such dispensation or exemption, any variation or revocation of such conditions, or the revocation of any exemption granted or dispensation directed has been made, under section sixteen of this Act.

shall be prima facie evidence of the matters stated therein.