



ANALYSIS

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1990, No. 34

An Act to amend the Marine Pollution Act 1974

[17 April 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Marine Pollution Amendment Act 1990, and shall be read together with and deemed part of the Marine Pollution Act 1974 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 28th day after the date on which it receives the Royal assent.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by omitting from the definition of the term “aircraft” the words “; and includes a hovercraft as defined in section 2 of the Hovercraft Act 1971”.

(2) Section 2 (1) of the principal Act is hereby further amended by adding to the definition of the term “New Zealand ship” (as substituted by section 29 (3) of the Shipping and Seamen Amendment Act 1987) the words “; and includes a hovercraft as defined in section 2 of the Hovercraft Act 1971”.

(3) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “New Zealand waters”, and substituting the following definition:

“‘New Zealand waters’ means—

“(a) The internal waters of New Zealand; and

“(b) The territorial sea of New Zealand; and

“(c) The waters of the exclusive economic zone of New Zealand (as described in section 9 of the Territorial Sea and Exclusive Economic Zone Act 1977):”.

(4) Section 2 (1) of the principal Act is hereby further amended by omitting from the definition of the term “outside New Zealand waters” the words “territorial sea of New Zealand”, and substituting the words “exclusive economic zone of New Zealand (as described in section 9 of the Territorial Sea and Exclusive Economic Zone Act 1977)”.

(5) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “pollutant”, and substituting the following definition:

“ ‘Pollutant’ means any substance, or any substance that is part of a class of substances, or any form of energy, declared by the Governor-General pursuant to subsection (2) of this section to be a pollutant for the purposes of this Act; and includes any water contaminated by any such substance or form of energy; and a reference to any pollutant shall be construed as a reference to mixtures of a pollutant with water or with any other substance or form of energy:”.

(6) Section 2 (1) of the principal Act is hereby further amended by adding to the definition of the term “ship” the words “; and includes any hovercraft as defined in section 2 of the Hovercraft Act 1971”.

(7) Section 2 (2) of the principal Act is hereby amended by inserting, after the words “other than oil, ”, the words “or any form of energy,”.

3. Duty to report threatened discharges of oil or pollutants—The principal Act is hereby amended by inserting, after section 16, the following section:

“16A. (1) Where there is any significant threat that a discharge or escape of any oil or pollutant to which section 16 (1) of this Act applies may occur, the owner or master of the ship, or the occupier of the place on land, or the owner of the pipeline, or the owner of the offshore installation, or the person carrying on the operations, as the case may be, shall immediately, by the quickest means available to that person, by radio if possible, report the threatened occurrence to the Harbourmaster in the case of a possible discharge or escape

into a harbour, and to the Minister in the case of a possible discharge or escape otherwise than into a harbour.

“(2) Where there is any significant threat that a discharge or escape of any oil or pollutant to which section 16 (2) of this Act applies may occur, the owner or master of the ship shall immediately, by the quickest means available to that person, report the threatened occurrence to the Harbourmaster in the case of a possible discharge or escape into a harbour, and to the Minister in the case of a possible discharge or escape otherwise than into a harbour.

“(3) The reports required to be made under subsections (1) and (2) of this section shall contain the following matters:

“(a) The event to which the threat is attributable:

“(b) The weather and sea conditions at the time when the report is made:

“(c) The description and quantity of any oil carried and the description and quantity of each type of oil that may be discharged or may escape:

“(d) The description and quantity of any pollutant carried and the description and quantity and concentration of each type of pollutant that may be discharged or may escape:

“(e) The state of the rest of the cargo carried (whether oil or pollutants or not):

“(f) The measures that are being taken to minimise the possibility of any damage that may occur.

“(4) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$20,000, who—

“(a) Fails to comply with any provision of this section; or

“(b) Makes a report containing any information which to his or her knowledge is false or misleading in any material particular.”

4. Offence to store toxic or hazardous waste—The principal Act is hereby amended by inserting, after section 21B (as inserted by section 24 of the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987), the following section:

“21C. (1) Every person commits an offence who stores toxic or hazardous waste—

“(a) In New Zealand waters; or

“(b) In the waters above the continental shelf of New Zealand; or

“(c) In the seabed or in the subsoil of the seabed below any of the waters described in paragraphs (a) and (b) of this subsection.

“(2) Every person who is guilty of an offence under this section—

“(a) Is liable on summary conviction to a fine not exceeding \$100,000; and

“(b) Is also liable to pay such amount as the Court may assess in respect of the expenses and costs that have been incurred or will be incurred in removing or clearing up or dispersing the waste or the matter to which the offence relates.

“(3) For the purposes of this section, ‘toxic or hazardous waste’ means any waste or other matter specified in regulations made for the purposes of paragraphs (a) and (b) of section 22A (1) of this Act, being any waste or other matter for which a permit cannot be granted under section 22B of this Act or for which a special permit is required under that section.”

5. Offence to dump or incinerate waste or other matter—(1) Section 22 (1) of the principal Act (as substituted by section 4 of the Marine Pollution Amendment Act 1980) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Any waste or other matter is dumped from a ship or aircraft to which this Part of this Act applies—

“(i) Into New Zealand waters; or

“(ii) Into the waters above the continental shelf; or

“(iii) Into the seabed or subsoil of the seabed below any waters described in subparagraph (i) or subparagraph (ii) of this paragraph; or”.

(2) Section 22 (5) (b) of the principal Act (as so substituted) is hereby amended by inserting, after the words “New Zealand waters”, the words “or the waters above the continental shelf”.

6. Permits—Section 22B (2) (b) of the principal Act (as substituted by section 4 of the Marine Pollution Amendment Act 1980) is hereby amended by inserting, after the words “New Zealand waters”, the words “or the waters above the continental shelf”.

7. Special defences—Section 23 of the principal Act is hereby amended by omitting the expression “section 21”, and substituting the expression “section 22”.

8. Criteria to govern dumping of waste and other matter into sea—Section 24 of the principal Act is hereby amended by adding to paragraph A the following item:

“9. In issuing a permit, the issuing authority should consider whether an adequate scientific basis and sufficient knowledge of the composition and characteristics of the waste or other matter proposed for dumping exist for assessing the impact of such material on the marine environment and human health.”

9. Liability for pollution damage—Section 31 of the principal Act is hereby amended by repealing subsection (11), and substituting the following subsection:

“(11) This section applies to—

“(a) Every ship other than a ship to which section 32 of this Act applies:

“(b) Every ship to which pollution damage in the exclusive economic zone of New Zealand (as described in section 9 of the Territorial Sea and Exclusive Economic Zone Act 1977) is attributable, including any ship to which section 32 of this Act applies.”

10. Liability of certain shipowners—Section 32 (1) of the principal Act is hereby amended by omitting the words “New Zealand waters”, and substituting the words “the internal waters of New Zealand or in the territorial sea of New Zealand”.

11. Other Acts not affected—Section 69 (3) of the principal Act (as substituted by section 8 of the Marine Pollution Amendment Act 1977) is hereby amended—

(a) By omitting the word “special”:

(b) By omitting the expression “section 22 (2)”, and substituting the expression “section 22B”.

12. Consequential amendments and repeals—(1) Section 20 (1) (b) of the principal Act (as substituted by section 23 of the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987) is hereby consequentially amended—

(a) By repealing subparagraph (ii):

(b) By omitting from subparagraph (iv) the words “subparagraphs (i) to (iii)”, and substituting the words “subparagraphs (i) and (iii)”.

(2) Section 20 (2) of the principal Act (as substituted by section 4 of the Marine Pollution Amendment Act 1980) is hereby consequentially repealed.

(3) Section 21A (1) (b) of the principal Act (as inserted by section 24 of the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987) is hereby consequentially amended—

(a) By repealing subparagraph (ii):

(b) By omitting from subparagraph (iv) the words “subparagraphs (i) to (iii)”, and substituting the words “subparagraphs (i) and (iii)”.

(4) Section 21B (1) of the principal Act (as inserted by section 24 of the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987) is hereby consequentially amended—

(a) By repealing paragraph (b):

(b) By omitting from paragraph (d) the words “paragraphs (a) to (c)”, and substituting the words “paragraphs (a) and (c)”.

This Act is administered in the Ministry of Transport.
