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1965, No. 65

An Act to enable effect to be given to the International Convention for the Prevention of Pollution of the Sea by Oil 1954, and certain amendments thereof, and otherwise to make better provision for preventing the pollution of navigable waters by oil
[22 October 1965]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Oil in Navigable Waters Act 1965.

(2) This Act shall come into force on the first day of April, nineteen hundred and sixty-six.

Cf. Oil in Territorial Waters Act 1926, s. 1 (N.Z.);
Oil in Navigable Waters Act 1955, s. 25 (U.K.)

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Barge” includes a lighter or any similar vessel:

“Continental shelf” has the same meaning as in the Continental Shelf Act 1964:

“Harbour” or “port” has the same meaning as in the Harbours Act 1950:

“Harbour Board” has the same meaning as in the Harbours Act 1950:

“Harbourmaster” includes any person specially appointed by a Harbour Board for the purpose of enforcing the provisions of this Act in relation to the harbour:

“Heavy diesel oil” means marine diesel oil, other than those distillates of which more than fifty per cent by volume distils at a temperature not exceeding three hundred and forty degrees Centigrade when tested in the manner for the time being prescribed by regulations made under this Act, and while no such regulations are in force when tested by the American Society for Testing Materials Standard Method D158/83:

“Internal waters of New Zealand” include—

(a) Harbours, estuaries, and other areas of the sea that are on the landward side of the baseline of the territorial sea of New Zealand; and

(b) Rivers and other inland waters of New Zealand that are navigable by vessels:

“Mile” means the international nautical mile:

“Minister” means the Minister of Marine:

“New Zealand Government ship” has the same meaning as in the Shipping and Seamen Act 1952:

“New Zealand ship” has the same meaning as in the Shipping and Seamen Act 1952; and includes barges, lighters, and like vessels to which section 245A of that Act (as inserted by section 17 of the Shipping and Seamen Amendment Act 1963) applies:

“Oil” means oil of any description; and includes spirit produced from oil of any description; and also includes coal tar:

“Oil reception facilities”, in relation to any harbour, means facilities for enabling ships using the harbour to discharge or deposit oil residues:

“Oil residues” means any waste material consisting of, or arising from, oil or a mixture containing oil:

“Outside the territorial sea of New Zealand” means outside the seaward limits thereof:

“Owner”, in relation to any ship, includes any agent in New Zealand of the owner and any charterer to whom the ship may be demised:

“Petroleum spirit” means any petroleum which has a flashing point of not less than seventy-three but less than one hundred and fifty degrees Fahrenheit:

“Prescribed date” means the date prescribed by regulations made under this Act as the prescribed date for the purposes of this Act:

“Prohibited sea area”,—

(a) Until the prescribed date, means,—

(i) In relation to tankers, an area of the sea designated by or in accordance with section 4 of this Act to be a prohibited sea area in relation to tankers:

(ii) In relation to ships other than tankers, an area of the sea designated by or in accordance with section 4 of this Act to be a prohibited sea area in relation to ships other than tankers:

(b) On and after the prescribed date, an area of the sea designated in accordance with section 5 of this Act to be a prohibited sea area:

“Sea” includes any estuary or arm of the sea:

“Ship” has the same meaning as in the Shipping and Seamen Act 1952:

“Subsequent Convention” means any Convention relating to the prevention of the pollution of the sea by oil, being a Convention subsequent to the International Convention for the Prevention of Pollution of the Sea by Oil 1954; and includes any amendments to that convention or to any subsequent Convention:

“Tanker” means a ship in which the greater part of the cargo space is adapted for the carriage of liquid cargoes in bulk, and which is not for the time being carrying a cargo other than oil in that part of its cargo space:

“Territorial sea of New Zealand” has the same meaning as in the Territorial Sea and Fishing Zone Act 1965: “Transfer”, in relation to oil, means transfer in bulk.

(2) In this Act, unless the context otherwise requires, the expression “place on land” includes anything resting on the bed or shore of the territorial sea or internal waters of New Zealand, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of the said territorial sea or internal waters of New Zealand; and the term “occupier”, in relation to any such thing as is mentioned in the foregoing provisions of this subsection, if it has no other occupier, means the owner thereof, and, in relation to a railway wagon or road vehicle, means the person in charge of the wagon or vehicle and not the occupier of the land on which the wagon or vehicle stands.

(3) Any reference in any provision of this Act to a mixture containing oil shall be construed as a reference to any mixture of oil (or, as the case may be, oil of a description referred to in that provision) with water or with any other substance.

(4) Any reference in this Act to the discharge of oil, or to its being discharged, from a ship or place or thing, except where the reference is to its being discharged for a specified purpose, includes a reference to the escape of the oil or mixture, or (as the case may be) to its escaping, from that ship or place or thing.

(5) For the purposes of any provision of this Act relating to the discharge of oil or a mixture containing oil from a ship, any floating craft (other than a ship) which is attached to a ship shall be treated as part of the ship.

(6) Any power conferred by this Act to test any equipment on board a ship shall be construed as including a power to require persons on board the ship to carry out such work as may be requisite for the purpose of testing the equipment; and any provision of this Act as to submitting equipment for testing shall be construed accordingly.

Cf. *Oil in Navigable Waters Act 1955*, ss. 1 (5), 3 (4), 22 (U.K.)

3. Discharge of certain oils into prohibited sea areas—

(1) If any oil to which this section applies is discharged before the prescribed date from a New Zealand ship into a part of the sea which, in relation to that ship, is a prohibited sea area, or if any mixture containing not less than one hundred parts of oil to which this section applies in a million parts of the mixture is discharged from such a ship into such

a part of the sea, the owner or master of the ship shall, subject to the provisions of this Act, be guilty of an offence under this section.

(2) If any oil to which this section applies is discharged on or after the prescribed date from a New Zealand ship into a part of the sea which is a prohibited sea area, or if any mixture containing not less than one hundred parts of oil to which this section applies in a million parts of the mixture is discharged from such a ship into such a part of the sea, the owner or master of the ship shall, subject to the provisions of this Act, be guilty of an offence under this section.

(3) This section applies to—

(a) Crude oil, fuel oil, lubricating oil, and heavy diesel oil; and

(b) Any other description of oil to which this section is for the time being declared to apply by regulations made under this Act with regard to the provisions of any subsequent Convention, or with regard to the persistent character of oil of that description and the likelihood that it would cause pollution if discharged from a ship into a prohibited sea area.

(4) Regulations made under this Act may make exceptions from the operation of subsections (1) and (2) of this section or either of those subsections, either absolutely or subject to any prescribed conditions, and either generally or as respects particular classes of ships, or in relation to particular descriptions of oil or mixtures containing oil or to the discharge of oil or mixtures in prescribed circumstances, or in relation to particular areas of the sea.

(5) Subsection (1) of this section shall continue in force until the first prescribed date.

Cf. Oil in Navigable Waters Act 1955, s. 1 (U.K.)

4. Designation of prohibited sea areas until prescribed date—(1) For the purposes of this Act the areas of the sea designated by or in accordance with this section shall be prohibited sea areas in relation to tankers and to ships other than tankers respectively.

(2) Subject to the following provisions of this section,—

(a) The areas specified in Part I of the First Schedule to this Act shall be prohibited sea areas in relation to tankers:

(b) The areas specified in Part II of that Schedule shall be prohibited sea areas in relation to ships other than tankers.

(3) For the purpose of protecting the coasts and territorial sea of New Zealand against pollution by oil, regulations made under this Act may—

(a) Designate any area of the sea, outside the territorial sea of New Zealand and outside the areas specified in Part I of the First Schedule to this Act, as a prohibited sea area in relation to tankers:

(b) Designate any area of the sea, outside the territorial sea of New Zealand and outside the areas specified in Part II of the First Schedule to this Act, as a prohibited sea area in relation to ships other than tankers.

(4) For the purpose of giving effect to any variation of the prohibited zones referred to in the International Convention for the Prevention of Pollution of the Sea by Oil 1954, in accordance with the provisions of that Convention or of any subsequent Convention, regulations made under this Act may vary any of the areas specified in any Part of the First Schedule to this Act, or declare that any area specified in a Part of that Schedule shall cease to be included therein.

(5) For the purpose of giving effect to any subsequent Convention, regulations made under this Act may designate as a prohibited sea area in relation to tankers, or to ships other than tankers, any area of the sea, outside the territorial sea of New Zealand, which apart from the regulations is not a prohibited sea area in relation to tankers, or to ships other than tankers, as the case may be.

(6) This section shall continue in force until the prescribed date, and shall then expire.

Cf. *Oil in Navigable Waters Act 1955*, s. 2 (U.K.)

5. Designation of prohibited sea areas on and after prescribed date—For the purpose of protecting the coasts and territorial sea of New Zealand against pollution by oil, or of giving effect to any Convention relating to the prevention of the pollution of the sea by oil, regulations made under this Act and commencing on or after the prescribed date may,—

(a) Designate, as a prohibited sea area, any area of the sea outside the territorial sea of New Zealand:

(b) Vary the limits of any such prohibited sea area or declare that any area shall cease to be a prohibited sea area.

Cf. *Oil in Navigable Waters Act 1955*, s. 2 (U.K.); *Oil in Navigable Waters Act 1963*, s. 3 (U.K.)

6. Discharge of oil into New Zealand waters—(1) If any oil or mixture containing oil is discharged into the territorial sea or internal waters of Zealand 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,—

- (a) If the discharge is from a ship, the owner or master of the ship; or
- (b) If the discharge is from a place on land, the occupier of that place; or
- (c) If the discharge is from apparatus used for transferring oil from or to a ship, the person in charge of the apparatus—

is guilty of an offence under this section.

(2) A Harbour Board may appoint a place within its jurisdiction where the ballast waters of ships in which a cargo of petroleum spirit has been carried may be discharged into the waters of the harbour, at such times, and subject to such conditions, as the Harbour Board may determine; and, where a place is so appointed, the discharge of ballast water from such a ship shall not constitute an offence under this section, if the ballast water is discharged at that place, and at a time and in accordance with the conditions so determined, and the ballast water contains no oil other than petroleum spirit.

Cf. *Oil in Navigable Waters Act 1955, s. 3 (U.K.)*

7. Special defences under sections 3, 6, and 9—(1) Where a person is charged with an offence under section 3 or section 9 of this Act, or is charged with an offence under section 6 of this Act as the owner or master of a ship, it shall be a defence to prove that the oil or mixture in question was discharged for the purpose of securing the safety of any ship, or of preventing damage to any ship or cargo, or of saving life:

Provided that a defence under this section shall not have effect if the Court is satisfied that the discharge of the oil or mixture was not necessary for the purpose alleged in the defence or was not a reasonable step to take in the circumstances.

(2) Where a person is charged as mentioned in subsection (1) of this section, it shall also be a defence to prove—

- (a) That the oil or mixture escaped in consequence of damage to the ship, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture; or
- (b) That the oil or mixture escaped by reason of leakage, that the leakage was not due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

(3) Where a person is charged with an offence under section 6 of this Act as the occupier of a place on land, or as the person in charge of any apparatus, from which oil or a mixture containing oil is alleged to have escaped, it shall be a defence to prove that the escape of the oil or mixture was not due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

(4) Without prejudice to subsection (3) of this section, it shall be a defence for the occupier of a place on land, who is charged with an offence under section 6 of this Act, to prove that the discharge was caused by the act of a person who was in that place without the permission (express or implied) of the occupier.

(5) Where a person is charged with an offence under section 6 of this Act in respect of the discharge of a mixture containing oil from a place on land, it shall (without prejudice to any other defence under this section) be a defence to prove—

- (a) That the oil was contained in an effluent produced by operations for the refining of oil;
- (b) That it was not reasonably practicable to dispose of the effluent otherwise than by discharging it into the territorial sea or internal waters of New Zealand; and
- (c) That all reasonably practicable steps had been taken for eliminating oil from the effluent:

Provided that a defence under this subsection shall not have effect if it is proved that, at a time to which the charge relates, the surface of the waters into which the mixture was discharged from the place in question, or land adjacent to those waters, was fouled by oil, unless the Court is satisfied that the fouling was not caused, or contributed to, by oil contained in any effluent discharged at or before that time from that place.

(6) Where any oil or mixture containing oil is discharged in consequence of the exercise by any Minister of the Crown or any Harbour Board or any Receiver of Wreck of any power conferred on him or it by or under section 208 of the Harbours Act 1950 or section 353 of the Shipping and Seamen Act 1952, and apart from this subsection the Minister or Board or Receiver exercising the power or a person employed by or acting on his or its behalf would be guilty of an offence under section 3 or section 6 of this Act in respect of that discharge, the Minister or Board or Receiver or person shall not be convicted of that offence unless it is shown that he or it failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping, or reducing the discharge.

Cf. *Oil in Navigable Waters Act 1955, s. 4 (U.K.)*

8. Equipment in ships to prevent oil pollution—(1) For the purpose of preventing or reducing discharges of oil and mixtures containing oil into the sea, regulations may be made under this Act requiring New Zealand ships to be fitted with such equipment, and to comply with such requirements, as may be prescribed.

(2) Without prejudice to the generality of subsection (1) of this section, where any regulations made thereunder require ships to be fitted with equipment of a prescribed description, the regulations may provide that equipment of that description —

(a) Shall not be installed in a ship to which the regulations apply unless it is of the type tested and approved by a person appointed by the Minister:

(b) While installed in such a ship, shall not be treated as satisfying the requirements of the regulations unless, at such times as may be specified in the regulations, it is submitted for testing and is approved by a person so appointed.

(3) The Minister may appoint persons to carry out tests for the purposes of any regulations made under this section, and, in respect of the carrying out of any such tests, may charge such fees as may be prescribed by the regulations.

(4) Every surveyor of ships shall be deemed to be a person appointed by the Minister to carry out tests for the purposes of any regulations made under this section, in so far as they relate to tests required in accordance with paragraph (b) of subsection (2) of this section.

(5) If, in the case of any ship, the provisions of any regulations under this section which apply to that ship are contravened, the owner or master of the ship is guilty of an offence under this section.

Cf. *Oil in Navigable Waters Act 1955*, s. 5 (U.K.)

9. Restriction of discharge at sea from new ships over specified tonnage—(1) If any oil to which section 3 of this Act applies is discharged anywhere at sea from a New Zealand ship, being a ship of twenty thousand tons gross tonnage or more for which the building contract was entered into on or after the prescribed date, or if there is so discharged from such a ship any such oily mixture as is mentioned in subsections (1) and (2) of that section, the owner or master of the ship shall, subject to the provisions of this Act, be guilty of an offence:

Provided that it shall be a defence to prove that by reason of special circumstances it was impracticable or unreasonable to retain the oil or mixture in the ship.

(2) Where any such oil or oily mixture is discharged at sea from such a ship as aforesaid, the master of the ship shall as soon as practicable report the fact in the prescribed form and manner to the Minister, and if he fails to comply with this subsection he is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred pounds.

(3) Regulations made under this Act may make exceptions from the operation of this section, either absolutely or subject to any prescribed conditions, and either generally or as respects particular classes of ships, or in relation to particular descriptions of oil or mixtures containing oil or to the discharge of oil or mixtures in prescribed circumstances, or in relation to particular areas of the sea.

(4) For the purpose of giving effect to any variation of the *International Convention for the Prevention of Pollution of the Sea by Oil 1954* or to any subsequent Convention, regulations made under this Act may apply the foregoing provisions of this section to ships of such classes as may be specified in the regulations.

(5) Nothing in this section shall authorise the discharge of oil or any oily mixture in a prohibited sea area.

Cf. *Oil in Navigable Waters Act 1963*, s. 2 (U.K.)

10. Escape of oil from pipe-line or as result of operations on sea bed—If any oil to which section 3 of this Act applies,

or any mixture containing not less than one hundred parts of any such oil in a million parts of the mixture, is discharged or escapes into any part of the sea or any internal waters—

(a) From a pipe-line situated within the territorial limits of New Zealand or on the continental shelf of New Zealand; or

(b) Otherwise than from a ship, as the result of any operations for the exploration of the sea bed and the subsoil thereof within the territorial limits of New Zealand or of the continental shelf of New Zealand, or the exploitation of their natural resources—

the owner of the pipe-line or, as the case may be, the person carrying on the operations shall be guilty of an offence unless he proves, in the case of a discharge from a place in his occupation, that it was due to the act of a person who was there without his permission (express or implied) or, in the case of an escape, that he took all reasonable care to prevent it and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it.

Cf. Continental Shelf Act 1964, s. 5 (U.K.)

11. Penalties for offences—A person guilty of an offence under any of the foregoing provisions of this Act (except subsection (2) of section 9) is liable on summary conviction to a fine not exceeding one thousand pounds, and is also liable to pay such amount as the Magistrate may assess in respect of the cost of removing any oil to which the offence relates from any part of the territorial sea or internal waters of New Zealand or from any foreshore or harbour works in New Zealand.

Cf. Oil in Navigable Waters Act 1955, s. 6 (U.K.)

12. Keeping of records of matters relating to oil—(1) Regulations may be made under this Act requiring masters of New Zealand ships to keep records—

(a) Of any occasion on which oil or a mixture containing oil is discharged from any such ship for the purpose of securing the safety of any ship, or of preventing damage to any ship or cargo, or of saving life:

(b) Of any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from any such ship in consequence of damage to the ship, or by reason of leakage:

(c) Of the carrying out, on board or in connection with any such ship, of such operations as may be prescribed, being operations relating to—

(i) The ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and the cleaning of, such tanks; or

(ii) The separation of oil from water, or from other substances, in any mixture containing oil; or

(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; or

(iv) The disposal of any other oil residues or sediments:

(d) Of any discharge of oil or any oily mixture to which subsection (2) of section 9 of this Act applies.

(2) Regulations may be made under this Act requiring the keeping of records relating to the transfer of oil to and from ships while they are within the territorial sea or internal waters of New Zealand. In the case of ships in respect of which requirements are imposed under subsection (1) of this section, any requirements imposed under this subsection shall be in addition to those imposed under the said subsection (1).

(3) Any records required by virtue of regulations made under subsection (2) of this section in the case of any ship shall be kept by the master of the ship:

Provided that in the case of a barge the records, in so far as they relate to the transfer of oil to the barge, shall be kept by the person supplying the oil, and, so far as they relate to the transfer of oil from the barge, shall be kept by the person to whom the oil is delivered.

(4) Where by any regulations made under this section any records are required to be kept, the regulations may—

(a) Prescribe the form in which the records are to be kept, and the nature of the entries to be made in them:

(b) Require the person keeping the records to retain them for a prescribed period:

(c) Require that person, at the end of the prescribed period, to transmit the records to a place or person determined by or under the regulations:

(d) Provide for the custody or disposal of the records after their transmission to such a place or person.

(5) Any person who fails to comply with any requirement imposed by or under this section commits an offence and is liable on summary conviction to a fine not exceeding five hundred pounds.

(6) Any person who makes an entry in any records kept under this section which is to his knowledge false or misleading in any material particular commits an offence and is liable on summary conviction to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding six months, or both.

(7) In any proceedings under this Act—

(a) Any records kept in pursuance of regulations made under this section, or in pursuance of subsection (2) of section 9 of this Act or of any regulations made under that subsection, shall be admissible as evidence of the facts stated in those records:

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

(c) Any document purporting to be records to which paragraph (a) of this subsection applies, or purporting to be such a certified copy as is mentioned in paragraph (b) of this subsection, shall, unless the contrary is proved, be presumed to be such records, or such a certified copy, as the case may be.

Cf. *Oil in Navigable Waters Act 1955*, s. 7 (U.K.)

13. Facilities in harbours for disposal of oil residues—

(1) Without restricting anything in the *Harbours Act 1950*, in respect of every harbour in New Zealand, the powers of the Harbour Board shall include power to provide facilities for enabling ships using the harbour to discharge or deposit oil residues.

(2) Any power of a Harbour Board to provide oil reception facilities shall include power to join with any other person in providing them, and references in this section to the provision of oil reception facilities by a Harbour Board shall be construed accordingly; and any such power shall also include power to arrange for the provision of such facilities by any other person.

(3) A Harbour Board providing oil reception facilities, or a person providing such facilities by arrangement with a Harbour Board, may make reasonable charges for the use of the facilities, and may impose reasonable conditions in respect of the use thereof.

(4) Subject to the following provisions of this section, any oil reception facilities provided by, or by arrangement with, a Harbour Board shall be open to all ships using the harbour, on

payment of any charges, and subject to compliance with any conditions, imposed in accordance with subsection (3) of this section.

(5) Where in the case of any harbour in New Zealand it appears to the Minister, after consultation with the Harbour Board and with any organisation appearing to him to be representative of owners of New Zealand ships,—

(a) If the harbour has oil reception facilities, that those facilities are inadequate; or

(b) If the harbour has no such facilities, that the harbour has need of such facilities—

the Minister may direct the Harbour Board to provide, or arrange for the provision of, such oil reception facilities as may be specified in the directions.

(6) Nothing in this section shall be construed as requiring a Harbour Board to allow untreated ballast water (that is to say, ballast water which contains oil and has not been subjected to an effective process for separating the oil from the water) to be discharged into any oil reception facilities provided by, or by arrangement with, the Harbour Board; and the Minister shall exercise his powers under subsection (5) of this section accordingly.

(7) Any Harbour Board failing to comply with any directions given under subsection (5) of this section within the period specified in the directions, or within any extended period allowed by the Minister (whether before or after the end of the period so specified), commits an offence and is liable on summary conviction to a fine not exceeding ten pounds for each day during which the default continues, from the day after the end of the period specified in the directions or any extended period allowed by the Minister, as the case may be, until the last day before that on which the facilities are provided in accordance with the directions.

(8) Subsections (1), (2), (5), and (7) of this section shall have effect in relation to arrangements for disposing of oil residues discharged or deposited by ships using the harbour's oil reception facilities, and to the making of such arrangements, as those sections have effect in relation to oil reception facilities and the provision of those facilities.

Cf. *Oil in Navigable Waters Act 1955*, s. 8 (U.K.)

14. Restrictions on transfer of oil at night—(1) No oil shall be transferred between sunset and sunrise to or from a ship in any harbour in New Zealand unless the requisite notice has been given in accordance with this section:

Provided that this subsection shall not apply to the transfer of oil at the request or direction of a fire brigade.

(2) For the purposes of this section a general notice may be given to the harbourmaster of a harbour that transfers of oil between sunset and sunrise will be frequently carried out at a place in the harbour within a period specified in the notice; and if such a notice is given it shall be the requisite notice for the purposes of this section as regards transfers of oil at that place within the period specified in the notice:

Provided that the period specified in such a notice shall not extend beyond the end of the period of twelve months beginning with the date on which the notice is given.

(3) Subject to subsection (2) of this section, the requisite notice for the purposes of this section shall be a notice given to the harbourmaster not less than three hours nor more than ninety-six hours before the transfer of oil begins.

(4) In the case of a harbour which has no harbourmaster, references in subsections (2) and (3) of this section to the harbourmaster shall be read as references to the Harbour Board.

(5) If any oil is transferred to or from a ship in contravention of this section, the master of the ship, and, if the oil is transferred from or to a place on land, the occupier of that place, commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds.

Cf. *Oil in Navigable Waters Act 1955*, s. 9 (U.K.)

15. Master of overseas ship carrying oil to notify harbourmaster—(1) The master of every ship arriving in New Zealand from overseas carrying oil in bulk as cargo shall—

- (a) Send by radio to the harbourmaster at the first port of call in New Zealand, so as to be delivered to him not later than twelve hours before the arrival of the ship thereat, notice of the fact that oil is being carried as aforesaid; and
- (b) Before proceeding from any port in New Zealand to any other such port, send a similar notice to the harbourmaster at the last-mentioned port by such means as will ensure its being delivered at least twelve hours before the arrival of the ship.

(2) If the master of any ship fails to comply with the requirements of this section, he commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds.

(3) In any proceedings for an offence against this section it shall be a good defence to prove that notice to the effect required by this section was given to the harbourmaster by the owner of the ship, or by any other person, within the time limited by this section.

Cf. *Oil in Territorial Waters Act 1926, s. 5 (N.Z.)*

16. Duty to report discharges of oil into waters of harbours—(1) If any oil or mixture containing oil is discharged or escapes from a ship or place on land into a harbour in New Zealand, the owner or master of the ship, or the occupier of the place on land, as the case may be, shall forthwith report the occurrence to the harbourmaster, and, if he fails to do so, shall be guilty of an offence under this section:

Provided that if the harbour has no harbourmaster the report shall be made to the Harbour Board.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding two hundred pounds.

Cf. *Oil in Navigable Waters Act 1955, s. 10 (U.K.)*

17. Powers of inspection—(1) The Minister may appoint any person as an inspector to report to him—

(a) Whether the prohibitions, restrictions, and obligations imposed by virtue of this Act (including prohibitions so imposed by the creation of offences under this Act) have been complied with:

(b) What measures (other than measures made obligatory by regulations under section 8 of this Act) have been taken to prevent the escape of oil and mixtures containing oil:

(c) Whether the oil reception facilities provided in harbours are adequate.

(2) Any such inspector may be so appointed to report either in a particular case or in a class of cases specified in his appointment.

(3) Every surveyor of ships shall be taken to be a person appointed generally under subsection (1) of this section to report to the Minister on every kind of case falling within that subsection.

(4) Section 14 of the *Shipping and Seamen Act 1952* (which relates to Marine Inspectors) shall apply to persons appointed under the foregoing provisions of this section (including surveyors of ships in their capacity as such persons) as it applies to the Marine Inspectors referred to in that section, as if—

(a) Every reference in the section to that Act were a reference to this Act and included any regulations made under this Act; and

(b) Any power under that section to inspect premises included power to inspect any apparatus used for transferring oil.

(5) Any power of an inspector, under the said section 14 as applied by subsection (4) of this section, to inspect a ship shall include power to test any equipment with which the ship is required to be fitted in pursuance of regulations made under section 8 of this Act.

(6) Any power of an inspector, under the said section 14 as so applied, to require the production of any records required to be kept in accordance with section 12 of this Act, shall include power to copy any entry in those records and require the person by whom the records are to be kept to certify the copy as a true copy of the entry; and in paragraph (b) of subsection (5) of the said section 14, as so applied, the reference to subscribing a declaration shall be construed as a reference to the certification of such a copy.

(7) Without prejudice to any powers exercisable by virtue of the foregoing provisions of this section, in the case of a ship which is for the time being in a harbour in New Zealand, the harbourmaster, and any person appointed by the Minister under this subsection (either generally or in relation to a particular ship), shall have power—

(a) To go on board and inspect the ship or any part thereof, or any of the machinery, boats, equipment, or articles on board the ship, for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or a mixture containing oil from the ship into the waters of the harbour:

(b) To require the production of any records which by virtue of any regulations made under this Act are required to be kept in respect of the ship:

(c) To copy any entry in any such records, 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 subsection shall not unnecessarily detain or delay the ship from proceeding on any voyage.

(8) Any person who fails to comply with any requirement duly made in pursuance of paragraph (b) or paragraph (c) of subsection (7) of this section commits an offence and is

liable on summary conviction to a fine not exceeding ten pounds.

(9) Any person who wilfully obstructs a person acting in the exercise of any power conferred by virtue of this section commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds.

Cf. *Oil in Navigable Waters Act 1955*, s. 11 (U.K.)

18. Cost of removing oil to constitute debt due to Crown or Harbour Board—Notwithstanding anything in section 7 of this Act, an amount equal to all expenditure incurred by the Minister or a Harbour Board, as the case may be, for the removal from any territorial sea or internal waters of New Zealand, or from any prohibited sea area that is within fifty miles of New Zealand, or from any foreshore or harbour works, of any oil which has been discharged or has escaped into the sea or waters or area, less any amount ordered to be paid in respect of that removal under section 11 of this Act, is hereby declared to be a debt due to the Crown or to the Harbour Board by the owner of the ship or, as the case may be, the occupier of the land or the owner of the apparatus from which the oil was discharged or has escaped, and may be recovered accordingly.

Cf. *Oil in Territorial Waters Act 1926*, s. 7 (N.Z.)

19. Legal proceedings—(1) Where an offence under this Act or under any regulations made under this Act is alleged to have been committed by the master of a ship who thereafter departs from New Zealand before the expiration of the period within which proceedings for the offence might have been instituted against him, proceedings for the offence may, notwithstanding anything in the Summary Proceedings Act 1957, be instituted against him at any time within two months next after the date on which he first returns to New Zealand.

(2) For the purpose of any proceedings for any such offence, the offence may be treated as having been committed either at the place at which it was actually committed or at any place in which the person charged with the offence may at any time be.

(3) Notwithstanding that clearance has been granted to any ship under the *Customs Act 1913*, any officer of Customs may, if he has reason to believe that an offence against this Act has been committed by reason of a discharge or escape of oil from the ship, detain the ship in the territorial sea or internal waters of New Zealand:

Provided that no ship shall be detained pursuant to this subsection for a longer period than forty-eight hours unless within that period proceedings in respect of the offence are instituted against the owner or master.

(4) All the provisions of the Shipping and Seamen Act 1952 relating to the detention of ships (including the penal provisions thereof) shall, with the necessary modifications, apply to the detention of a ship pursuant to subsection (3) of this section.

(5) Where a fine imposed by any Court in proceedings against the owner or master of a ship for an offence under this Act or under any regulations made under this Act is not paid at the time and in the manner ordered by the Court, the Court shall, without prejudice to any other powers of the Court for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress and sale of the ship and her equipments.

(6) Proceedings for an offence under this Act or under any regulations made under this Act shall not be instituted in the case of an offence (other than an offence against subsection (8) of section 13 of this Act) committed in or in relation to the waters of a harbour except by the Harbour Board, and in any other case (including an offence against the said subsection (8)) except by a person authorised in that behalf by the Minister.

Cf. *Oil in Territorial Waters Act 1926*, s. 10 (N.Z.)

20. Detention of ships in cases of damage to property by discharge of oil—(1) If the Magistrate by whom any person is convicted of an offence under this Act in respect of the discharge or escape of oil from a ship, or any other Magistrate, is satisfied that damage to any property has been or is likely to be caused by the discharge or escape of oil, he may, upon its being shown to him by any applicant that none of the owners of the ship resides in New Zealand, issue an order directed to any officer of Customs or other officer named by the Magistrate, requiring him to detain the ship until such time as security, to be approved by the Magistrate, is given to abide the event of any action, suit, or other legal proceedings that may be instituted in respect of the damage to property, and to pay all costs, damages, and other money that may be awarded therein.

(2) On any such order being made, the officer of Customs or other officer to whom the order is directed shall detain

the ship accordingly, and the provisions of the Shipping and Seamen Act 1952 as to the detention of ships (including the penal provisions thereof) shall apply accordingly.

(3) In any legal proceedings in relation to any such damage as aforesaid, the person giving security shall be made defendant, and shall be stated to be the owner of the ship, and the production of the order of the Magistrate made in relation to the security shall be conclusive evidence of the liability of the defendant to the proceedings.

(4) If the owner of a ship is a corporation, it shall for the purposes of this section be deemed to reside in New Zealand if it has an office in New Zealand at which service of writs can be effected.

(5) The procedure under this section shall be such as the Magistrate to whom the application is made deems appropriate to the case.

Cf. Oil in Territorial Waters Act 1926, s. 4 (N.Z.)

21. Application of fines—Except in any case where section 109 of the Public Revenues Act 1953 applies, where any person is convicted of an offence in respect of the discharge or escape of any oil into the territorial sea or internal waters of New Zealand, or into any prohibited sea area that is within fifty miles of New Zealand, in contravention of the provisions of this Act, the Court before which he is convicted may, on the application of the prosecutor, order that the whole or any part of the fine imposed in respect of the offence shall be paid to such person as the Court may direct for the purpose of being applied by him in or towards meeting any expenses incurred in the removal of the oil so discharged or escaped, or in or towards making good any damage resulting from the discharge or escape of that oil.

Cf. Oil in Territorial Waters Act 1926, s. 8 (N.Z.)

22. General provisions as to application of Act—(1) The provisions of this Act, except provisions which are expressed to apply only to New Zealand ships, shall (subject to any exemptions expressly conferred by or under this Act) apply to all ships, whether registered or not, and of whatever nationality.

(2) Regulations made under this Act may direct that, subject to such exceptions and modifications as may be prescribed, any regulations made under section 8 of this Act, or under subsection (1) of section 12 of this Act, shall apply to ships

registered in, or having the nationality of, countries and territories other than New Zealand at any time when they are in a harbour in New Zealand, or are within the territorial sea or internal waters of New Zealand while on their way to or from a harbour in New Zealand.

(3) Regulations under subsection (2) of this section shall not be made so as to impose different requirements in respect of different countries or territories:

Provided that if the Governor-General is satisfied, as respects any country or territory, that ships registered in, or having the nationality of, that country or territory are required, by the law of the country or territory, to comply with provisions which are substantially the same as, or equally effective with, the requirements imposed by virtue of the regulations, the Governor-General may, by Order in Council, include in any such regulations a direction that those requirements shall not apply to any ship registered in, or having the nationality of, that country or territory if the ship complies with the said provisions applicable thereto under the law of that country or territory.

(4) No regulation made under this section shall apply to any ship as being within a harbour in New Zealand, or on her way to or from such a harbour, if the ship would not have been within the harbour, or, as the case may be, on her way to or from the harbour, but for stress of weather or other circumstance which neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

Cf. *Oil in Navigable Waters Act 1955*, s. 14 (U.K.)

23. Power of Minister to grant exemptions—The Minister may exempt any ships or classes of ships from any of the provisions of this Act or of any regulations made thereunder, either absolutely or subject to such conditions as he thinks fit.

Cf. *Oil in Navigable Waters Act 1955*, s. 15 (U.K.)

24. New Zealand Government ships—(1) The provisions of this Act shall not apply to ships of the New Zealand Naval Forces nor to New Zealand Government ships employed for the purposes of the New Zealand Naval Forces.

(2) Subject to the provisions of subsection (1) of this section, the provisions of this Act, whether or not they are expressed to apply only to New Zealand ships, shall apply to

New Zealand Government ships as they apply to other New Zealand ships.

Cf. *Oil in Navigable Waters Act 1955*, s. 16 (U.K.); *Oil in Navigable Waters Act 1964*, Schedule 1, clause 3 (U.K.)

25. Enforcement of conventions relating to oil pollution—

(1) Regulations made under this Act may empower such persons as may be designated by or under the regulations to go on board any ship to which the International Convention for the Prevention of Pollution of the Sea by Oil 1954 applies, while the ship is within a harbour in New Zealand, and to require production of any records required to be kept in accordance with that Convention.

(2) Any such regulations may, for the purposes thereof and with any necessary modifications, apply any of the provisions of this Act relating to the production and inspection of records and the taking of copies of entries therein, and to the admissibility in evidence of such records, including any provisions of the *Shipping and Seamen Act 1952* applied by those provisions and including any penal provisions of this Act in so far as they relate to those matters.

(3) For the purposes of this section, the Governor-General, if satisfied that any country has accepted or denounced the International Convention for the Prevention of Pollution of the Sea by Oil 1954, or that the said Convention extends or has ceased to extend to any territory, may, by Order in Council, include in any such regulations a declaration to that effect.

(4) In this section the expression "ship to which the International Convention for the Prevention of Pollution of the Sea by Oil 1954 applies" means a ship registered in or (after the prescribed date) registered in or having the nationality of,—

- (a) A country the government of which has been declared as aforesaid to have accepted that Convention, and has not been so declared to have denounced it; or
- (b) A territory to which it has been so declared that the Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend.

(5) The foregoing provisions of this section shall apply to any subsequent Convention, as those provisions apply to the said Convention of 1954.

Cf. *Oil in Navigable Waters Act 1955*, s. 18 (U.K.)

26. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Where a power to make regulations is conferred by any provision of this Act, regulations under that power may be made either as respects all, or as respects one or more, of the classes of ships, or other matters, to which the provision relates; 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.

Cf. Oil in Navigable Waters Act 1955, s. 20 (U.K.)

27. Repeals—The enactments specified in the Second Schedule to this Act are hereby repealed.

SCHEDULES

Section 4

FIRST SCHEDULE

PROHIBITED SEA AREAS

Part I—Initial Areas for Tankers

1. All areas of the sea within 50 miles of land exclusive of areas of the sea within the outer limits of the territorial sea of New Zealand.

2. The following areas of sea in so far as they extend more than 50 miles from land:

(a) Areas of sea within a distance of 100 miles from the coasts of the following countries:

Denmark:

Belgium:

The Federal Republic of Germany:

The Netherlands:

The United Kingdom of Great Britain and Northern Ireland.

(b) Areas of sea within a distance of 100 miles from the Atlantic coast of Canada.

(c) Areas of sea lying within a line drawn from a point on the Greenwich Meridian 100 miles in a north-north-easterly direction from the Shetland Islands; thence northwards along the Greenwich Meridian to latitude 64° north; thence westwards along the 64th parallel to longitude 10° west; thence to latitude 60° north, longitude 14° west; thence to latitude 54° 30' north, longitude 30° west; thence to latitude 44° 20' north, longitude 30° west; thence to latitude 48° north, longitude 14° west; thence eastwards along the 48th parallel to the coast of France:

FIRST SCHEDULE—*continued*

- (d) Areas of sea lying within a distance of 150 miles from the coasts of Australia, except off the north and west coasts of the Australian mainland between the point opposite Thursday Island and the point on the west coast at 20° south latitude.

Part II—Initial Areas for Ships other than Tankers

1. All areas of the sea within 50 miles of land exclusive of areas of sea within the outer limits of the territorial sea of New Zealand.

2. The following areas of sea in so far as they extend more than 50 miles from land, namely, areas of sea that are within a distance of 100 miles from the coasts of the following countries:

Belgium:

Denmark:

The Federal Republic of Germany:

Ireland:

The Netherlands:

The United Kingdom of Great Britain and Northern Ireland.

3. Areas of sea, in so far as they extend more than 50 miles from land, that are within a distance of 100 miles from the Atlantic coast of Canada.

SECOND SCHEDULE

Section 27

ENACTMENTS REPEALED

1925, No. 27—The Oil in Territorial Waters Act 1926. (1957 Reprint, Vol. 11, p. 433.)

1948, No. 77—The Statutes Amendment Act 1948: Sections 36 and 37. (1957 Reprint, Vol. 11, p. 440.)

1958, No. 88—The Public Revenues Amendment Act 1958: So much of the Second Schedule as relates to the Oil in Territorial Waters Act 1958.

This Act is administered in the Marine Department.