



THE OIL POLLUTION LEVIES ORDER 1978

KEITH HOLYOAKE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 27th day of February 1978

Present:

THE RIGHT HON. R. D. MULDOON PRESIDING IN COUNCIL

PURSUANT to the Marine Pollution Act 1974, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

ANALYSIS

<ol style="list-style-type: none"> 1. Title and commencement 2. Interpretation <p><i>Home-Trade Ships and New Zealand Fishing Boats</i></p> <ol style="list-style-type: none"> 3. Oil pollution levies on home-trade ships and New Zealand fishing boats 4. Adjustments after 1 April 5. Credits where higher rate becomes payable 6. Refunds on change of use 	<p style="text-align: center;"><i>Other Contributing Ships</i></p> <ol style="list-style-type: none"> 7. Oil pollution levies on other contributing ships 8. Elections to pay annual levies <p style="text-align: center;"><i>General Provisions</i></p> <ol style="list-style-type: none"> 9. Refunds for ships laid up 10. Refunds for ships not entering port during year 11. Right to deduct other levies from refunds 12. Ships putting to sea through stress of weather
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ORDER

1. Title and commencement—(1) This order may be cited as the Oil Pollution Levies Order 1978.

(2) This order shall come into force on the 1st day of April 1978.

2. Interpretation—(1) In this order, “year” means a year ending with the 31st day of March.

(2) In this order, expressions that are defined by section 29A of the Marine Pollution Act 1974 (as inserted by section 3 of the Marine Pollution Amendment Act (No. 2) 1977) have the meanings so defined and, unless the context otherwise requires, other expressions that are defined by section 2 of the Marine Pollution Act 1974 have the meanings so defined.

Home-Trade Ships and New Zealand Fishing Boats

3. Oil pollution levies on home-trade ships and New Zealand fishing boats—(1) There is hereby imposed, in respect of every contributing ship

that is a home-trade ship or a New Zealand fishing boat, an oil pollution levy for every year calculated at the following rate:

- (a) In the case of a contributing ship carrying a cargo of more than 2,000 tonnes of persistent oil in bulk, 150 cents per gross ton of the contributing ship:
- (b) In every other case, 30 cents per gross ton of the contributing ship.

(2) Every oil pollution levy that is imposed in respect of a contributing ship under this clause shall be due and payable in advance on the day on which the liability to pay the levy arises.

4. Adjustments after 1 April—Notwithstanding clause 3 of this order, where an oil pollution levy is incurred under that clause in respect of a contributing ship after the 1st day of April in the year for which it is payable, the amount of the levy shall be calculated in accordance with the following formula, namely—

$$\frac{a}{365} \times b$$

where—

“a” is the amount of the levy that would be payable under clause 3 of this order if it were incurred on the 1st day of April in that year; and

“b” is the number of days remaining in that year, from and including the day on which the levy is incurred in respect of the contributing ship.

5. Credits where higher rate becomes payable—Notwithstanding clause 3 of this order, where an oil pollution levy at the rate specified in paragraph (a) of that clause is incurred under that clause in respect of a contributing ship after the 1st day of April in the year for which it is payable, the amount of any levy already paid at the rate specified in paragraph (b) of that clause in respect of that contributing ship for that year shall be credited by the Secretary for Transport towards the payment of the higher levy.

6. Refunds on change of use—Notwithstanding clause 3 of this order, where—

- (a) An oil pollution levy under that clause has been paid in respect of a contributing ship for any year; and
- (b) On the application of the owner or master of the contributing ship during that year, the Secretary for Transport is satisfied that at the date of the application the use of the contributing ship is such that it is no longer a home-trade ship or a New Zealand fishing boat—

the Secretary for Transport may refund to the applicant an amount calculated in accordance with the following formula, namely—

$$\frac{a}{365} \times b$$

where—

“a” is the amount of the levy that has been paid; and

“b” is the number of days remaining in that year, from and including the date of the application.

Other Contributing Ships

7. Oil pollution levies on other contributing ships—(1) There is hereby imposed, in respect of every contributing ship that is not a home-trade ship or a New Zealand fishing boat, an oil pollution levy calculated at the following rate:

(a) In the case of a contributing ship carrying a cargo of more than 2,000 tonnes of persistent oil in bulk,—

(i) In respect of the first entry of the contributing ship into a New Zealand port from outside the harbour limits of that port on a voyage, 5 cents per gross ton of the contributing ship:

(ii) In respect of each subsequent entry of the contributing ship into a New Zealand port (whether or not it is the same port) from outside the harbour limits of that port during the continuation of the same voyage, 2.5 cents per gross ton of the contributing ship:

(b) In every other case—

(i) In respect of the first entry of the contributing ship into a New Zealand port from outside the harbour limits of that port on a voyage, 1 cent per gross ton of the contributing ship:

(ii) In respect of each subsequent entry of the contributing ship into a New Zealand port (whether or not it is the same port) from outside the harbour limits of that port during the continuation of the same voyage, 0.5 cents per gross ton of the contributing ship.

(2) Where an oil pollution levy is payable under this clause in respect of a contributing ship on a voyage—

(a) If the contributing ship enters one New Zealand port only during that voyage, the levy shall be paid to the Collector of Customs at that port; and

(b) If the contributing ship enters more than one New Zealand port during that voyage, every levy so payable shall be paid to the Collector of Customs at the last New Zealand port that the contributing ship enters during that voyage.

8. Elections to pay annual levies—(1) The owner or master of a contributing ship that—

(a) Is not a home-trade ship or a New Zealand fishing boat; and

(b) Does not carry a cargo of more than 2,000 tonnes of persistent oil in bulk—

may elect to pay, in respect of the contributing ship for any year, the oil pollution levy specified in subclause (3) of this clause instead of any levies that may be payable under clause 7 of this order in respect of the contributing ship during that year.

(2) Notwithstanding clause 7 of this order, where the owner or master of a contributing ship specified in subclause (1) of this clause has paid the oil pollution levy specified in subclause (3) of this clause in respect of the contributing ship for any year, no levy shall be payable under clause 7 of this order in respect of any entry by the contributing ship into a New Zealand port from outside the harbour limits of that port during that year.

(3) The oil pollution levy payable by a contributing ship for any year under this clause shall be calculated at the rate of 30 cents per gross ton of the contributing ship.

General Provisions

9. Refunds for ships laid up—Notwithstanding clause 3 or clause 8 of this order, where an oil pollution levy has been paid under either of those clauses in respect of a contributing ship for a year, and on the application of the owner or master of the contributing ship the Secretary for Transport is satisfied that for a period of not less than 30 consecutive days during that year the contributing ship has been out of commission, or laid up for survey or repairs, or prevented in consequence of an industrial dispute from putting to sea, the Secretary for Transport may refund to the applicant an amount calculated in accordance with the following formula, namely—

$$\frac{a}{365} \times b$$

where—

“a” is the amount of the levy that has been paid; and

“b” is the number of days for which the contributing ship has been out of commission, or laid up, or prevented from putting to sea.

10. Refunds for ships not entering port during year—On the application after the expiry of any year of the owner or master of a contributing ship in respect of which an oil pollution levy has been paid under clause 3 or clause 8 of this order for that year, where the Secretary for Transport is satisfied that the contributing ship has not entered a New Zealand port during that year, the Secretary for Transport may refund that levy to the applicant.

11. Right to deduct other levies from refunds—Without prejudice to any other method of recovery, the Secretary for Transport may deduct, from any refund under clause 6, clause 9, or clause 10 of this order in respect of a contributing ship, the amount of any other oil pollution levies owing and unpaid in respect of the contributing ship on or after the date of the application for the refund.

12. Ships putting to sea through stress of weather—Notwithstanding any other provision in this order, where a contributing ship that has entered a New Zealand port is compelled by stress of weather to put to sea, and later re-enters that port in order to complete any discharging or loading of passengers or cargo that was interrupted by its putting to sea, no oil pollution levy shall be payable in respect of that re-entry.

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the order, but is intended to indicate its general effect.

This order imposes, on contributing ships entering New Zealand ports, oil pollution levies on the following basis:

- (a) Home-trade ships and New Zealand fishing boats, if carrying in cargo more than 2,000 tonnes of persistent oil in bulk, will pay annually in advance a levy at the rate of 150 cents per gross ton:
- (b) Other home-trade ships and New Zealand fishing boats will pay annually in advance a levy at the rate of 30 cents per ton:
- (c) Other contributing ships, if carrying in cargo more than 2,000 tonnes of persistent oil in bulk, will pay 5 cents per gross ton for first entry into a New Zealand port during a voyage, and 2.5 cents per gross ton for each subsequent entry into a New Zealand port during that voyage:
- (d) All contributing ships not referred to above will pay 1 cent per gross ton for first entry into a New Zealand port, and 0.5 cents per gross ton for each subsequent entry into a New Zealand port during that voyage.

Provision is made for contributing ships (other than home-trade ships and New Zealand fishing boats) to elect to pay annually in advance, and for adjustments to be made in specified circumstances.

The order will come into force on 1 April 1978.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 2 March 1978.

This order is administered in the Ministry of Transport.