



Protection of the Sea (Civil Liability) Regulations 1983

Statutory Rules 1983 No. 222 as amended

made under the

Protection of the Sea (Civil Liability) Act 1981

This compilation was prepared on 15 August 2009
taking into account amendments up to SLI 2009 No. 206

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

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1 Name of Regulations [see Note 1]

These Regulations are the *Protection of the Sea (Civil Liability) Regulations 1983*.

2 Interpretation

- (1) In these Regulations, unless the contrary intention appears, *the Act* means the *Protection of the Sea (Civil Liability) Act 1981*.
- (2) In these Regulations, except in so far as the contrary intention appears, an expression used in a regulation made for the purposes of a provision in either Part II or Part III of the Act, and used in the Convention (whether or not a particular meaning is assigned to it by the Convention) has, in that regulation, the same meaning as in the Convention.

4 Acceptable guarantees

Each of the following kinds of guarantees are acceptable for the purposes of paragraph 3 of Article V of the Convention:

- (a) a guarantee given by a bank within the meaning of the *Banking Act 1959*;
- (b) a letter of guarantee given by an organization known as a Protection and Indemnity Club, being an organization the members of which carry on the business of marine insurance including insurance in respect of pollution damage;
- (c) a guarantee given by a guarantor approved by the Minister or by an officer of the Authority authorized in writing by the Minister for the purpose of this regulation.

5 Relevant insurance certificate (Act s 15)

A certificate issued, for the purposes of Article VII of the Convention, by or under the authority of the Government of a country to which the Civil Liability Convention applies in respect of a ship registered in a country that is not a country to which the Civil Liability Convention applies, being a

certificate issued on behalf of the Government of that last-mentioned country, shall be taken to be a relevant insurance certificate in respect of that ship for the purposes of paragraph 15 (7) (c) of the Act.

6 Prescribed form of application for an insurance certificate

For the purposes of paragraph 16 (2) (a) of the Act, the form set out in Schedule 1 is prescribed.

7 Person with whom application for insurance certificate must be lodged

For subsection 16 (2) of the Act, a person who performs the duties of any of the following positions in the Authority is a prescribed person:

- (a) Manager, Environment Protection;
- (b) Deputy Chief Executive Officer, Maritime Standards Division.

8 Prescribed form of insurance certificate

For the purposes of paragraph 16 (4) (a) of the Act, the form set out in Schedule 2 is prescribed.

9 Fee for issue of an insurance certificate

- (1) Subject to subregulation (2), a fee of \$70 is prescribed for the issue of an insurance certificate in respect of a ship under section 16 of the Act.
- (2) A fee of \$40 is prescribed for the renewal of a certificate mentioned in subregulation (1) if there are no changes to any material particulars (other than period of operation).

10 Person to whom copy of insurance certificate must be forwarded

For subsection 16 (6) of the Act, a person who performs the duties of Deputy Chief Executive Officer, Maritime Standards Division, in the Authority is a prescribed person.

11 Relevant insurance certificate — prescribed information

- (1) For the definition of *relevant insurance certificate* in section 19A of the Act, the following information is prescribed:
 - (a) the name of the ship;
 - (b) the name of the ship's owner;
 - (c) the name and business address of the person who is providing insurance or other financial security in respect of the ship to cover the liability of the ship's owner for pollution damage caused in Australia;
 - (d) the information referred to in subregulation (2);
 - (e) the amount of cover provided under the policy of insurance or financial security, being an amount that is at least the amount referred to in subregulation 12 (1).

- (2) For paragraph (1) (d), the information is:
 - (a) if the document is a Certificate of Entry issued by a Protection and Indemnity Club — the day when the insurance or financial security commences, being a day that is:
 - (i) not earlier than the last 20 February before the day when the ship enters or leaves, or attempts to enter or leave, a port in Australia; or
 - (ii) if the ship enters or leaves, or attempts to enter or leave, a port in Australia after 19 February but before 20 March in a year — not earlier than 20 February in the previous year; or
 - (b) in any other case — the period of validity of the insurance or financial security, being a period that includes the day when the ship enters or leaves, or attempts to enter or leave, a port in Australia.

12 Relevant insurance certificate — prescribed amount

- (1) For the definition of *relevant insurance certificate* in section 19A of the Act, the prescribed amount is the amount necessary to cover the liability of the ship's owner for pollution damage in respect of an incident up to:
- (a) if the Convention applies to the ship — the limit of liability for the ship under the applied provisions of the Convention; or
 - (b) if the Convention on Limitation of Liability for Maritime Claims, 1976, as amended by the 1996 Protocol, applies to the ship — the total of the limits of liability, for the ship, for each kind of claims under that Convention, as it has effect for Australia under the *Limitation of Liability for Maritime Claims Act 1989*.

Note The Convention on Limitation of Liability for Maritime Claims and the 1996 Protocol are reproduced in Schedules 1 and 1A, respectively, of the *Limitation of Liability for Maritime Claims Act 1989*.

- (2) In this regulation:

incident means an occurrence, or series of occurrences, having the same origin.

13 Tonnage of certain ships

The gross tonnage of a ship for which no gross tonnage has been determined in accordance with the International Convention on Tonnage Measurement of Ships, 1969 is taken, for the purpose of paragraph 19B (1) (b) of the Act, to be:

- (a) if the ship has an overall length of less than 33 metres — less than 400 tons; or
- (b) if the ship has an overall length of at least 33 metres — at least 400 tons.

Schedule 1 Application for certificate of insurance

(regulation 6)

COMMONWEALTH OF AUSTRALIA
Protection of the Sea (Civil Liability) Act 1981
APPLICATION FOR CERTIFICATE OF INSURANCE

in accordance with the
 International Convention on Civil Liability for Oil Pollution Damage,
 1992

Address for enquiries and for completed applications:

Manager
 Environment Protection
 Australian Maritime Safety Authority
 25 Constitution Avenue
 Canberra 2601
 GPO Box 2181 Canberra City 2601
 Ph (02) 6279 5040
 Fax (02) 6279 5026

A	<p>To the Minister of State administering the <i>Protection of the Sea (Civil Liability) Act 1981</i></p> <p>I/We (1) </p> <p>of (2)..... </p> <p>..... </p> <p>Telephone..... </p> <p>being the owner(s)/master/agent (3) of the ship, particulars of which are set out below, hereby apply for the issue of an insurance certificate under sub-section 16(1) of the <i>Protection of the Sea (Civil Liability) Act 1981</i> in respect of that ship.</p>	<p>Explanatory Notes</p> <p>(1) Strike out whichever is inapplicable and insert the full name of each applicant. (2) Insert the address and telephone number of each applicant.</p> <p>(3) Strike out whichever is inapplicable. An application by any person other than the owner(s), master or the agent of the ship, must be accompanied by a written authorisation.</p>
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PARTICULARS OF SHIP

B	Name of Ship
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C	Name and address of owner(s) (4) [if same as above insert "As Above"] Telephone.....
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(4) Please enter the name and address of the owner(s) as set out on the Blue Card issued by the P&I Club.

D	Type of ship (in terms of purpose)
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E	Official number or other distinctive number or letters
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F	Nationality of ship
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(5) Insert the amount of the tonnage of the ship ascertained in accordance with paragraph 10 of Article V of the International Convention on Civil Liability for: Oil Pollution Damage, 1992, namely:
 "The gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969"

G	Port of registry (home port)
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H	Tonnage (5)
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PARTICULARS OF INSURANCE

In addition to the information requested below, a notarised statement or certificate is required to be submitted by each insurer or organisation providing financial security. The statement or certificate should specify details of the insurance or security by reference to policy numbers, or other identifying particulars. The Minister or his delegate may request further information in order to establish the adequacy of the insurance cover, verification of its existence and the capacity of the insurer/guarantor to provide adequate cover.

I	Type and amount of security (6) (7)
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(6) If the liability for the ship listed is wholly covered by one P&I Club, the particulars required in section I and J may be omitted and in place inserted, "As per the attached 'blue card' certificate".

J	Duration of the security (8) from / / to / /
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(7) Indicate whether insurance contract, P&I cover, Bank guarantee etc.

(8) The duration of the security must be stated in terms of the time and date of commencement and cessation and must coincide with dates given in the insurer's or guarantor's certificate.

K	Name and address of each insurer or organisation providing financial security (9)
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(9) Insert the name(s) and address(es) of each insurer or organisation providing financial security. The address is to be the address of the principal place of business, and if different, the postal address for correspondence must also be shown.

L	Address of place where insurance or security is established (if same as above please insert "As Above")

I hereby apply for a Certificate of Insurance to be issued/renewed (10) in respect of the ship listed, and enclose remittance of (11) \$

Signature (12)
Date.....
.....
.....

(10) Strike out whichever is inapplicable.
(11) A fee of \$70 is payable for the issue of a first certificate or, in the case of certificate renewal, when substantial changes are made regarding insurance arrangements which necessitate more detailed examination of the application. A fee of \$40 is payable on annual renewal of the certificate where existing insurance arrangements continue, or are not substantially changed.
(12) Each applicant identified in Section A must sign the application form.

Schedule 2 Certificate of insurance

(regulation 8)

COMMONWEALTH OF AUSTRALIA

Protection of the Sea (Civil Liability) Act 1981

CERTIFICATE OF INSURANCE

Particulars of ship

Name of ship	Distinctive number or letters	Port of registry	Name and address* of each owner

There is in force, in respect of the ship described above, a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Particulars of insurance

Type and amount of security†:

Duration of the security: from to .

Name and address* of insurer (s) and/or guarantor (s)‡:

Address* of place where insurance or security is established:

This certificate, unless sooner cancelled, is valid from to .

Issued and certified by the Government of the Commonwealth of Australia at
(Place) on (Date).

.....
Minister of State administering the
Protection of the Sea (Civil Liability) Act 1981 (or delegate)

* Insert address of principal place of business.

† Where one organization has provided different types of security, each type of security and the amount thereof should be set out.

‡ Where insurance is provided by more than one organization, set out the name and address of each such organization and the type and amount of security provided by that organization.

Table of Instruments

Notes to the *Protection of the Sea (Civil Liability) Regulations 1983*

Note 1

The *Protection of the Sea (Civil Liability) Regulations 1983* (in force under the *Protection of the Sea (Civil Liability) Act 1981*) as shown in this compilation comprise Statutory Rules 1983 No. 222 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Instruments

Year and Number	Date of notification in Gazette or FRLI registration	Date of commencement	Application, saving or transitional provisions
1983 No. 222	14 Oct 1983	14 Oct 1983	
2001 No. 56	29 Mar 2001	6 Apr 2001	—
2006 No. 230	25 Aug 2006 (see F2006L02826)	26 Aug 2006	—
2009 No. 206	14 Aug 2009 (see F2009L03159)	15 Aug 2009	R. 4

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	rs. 2001 No. 56
R. 3	rep. 2001 No. 56
R. 4	am. 2001 No. 56; 2009 No. 206
Heading to r. 5	rs. 2001 No. 56
R. 7	rs. 2001 No. 56 am. 2006 No. 230; 2009 No. 206
R. 9	am. 2006 No. 230; 2009 No. 206
R. 10	rs. 2001 No. 56 am. 2009 No. 206
R. 11	rs. 2001 No. 56
R. 12	rs. 2001 No. 56 am. 2006 No. 230
R. 13	ad. 2001 No. 56
Schedule 1	
Schedule 1	am. 2001 No. 56 rs. 2006 No. 230 am. 2009 No. 206
Schedule 2	
Schedule 2	am. 2001 No. 56

Table A

Table A Application, saving or transitional provisions

Select Legislative Instrument 2009 No. 206

4 Transitional

- (1) Despite the amendment of subregulation 9 (1) of the principal Regulations by item [3] of Schedule 1, that subregulation applies to the issue of an insurance certificate on an application lodged before the commencement of these Regulations as if it had not been amended by these Regulations.
- (2) Despite the amendment of subregulation 9 (2) of the principal Regulations by item [4] of Schedule 1, that subregulation applies to the renewal of an insurance certificate on an application lodged before the commencement of these Regulations as if it had not been amended by these Regulations.
- (3) In this regulation, ***principal Regulations*** means the *Protection of the Sea (Civil Liability) Regulations 1983*.