

Reprint
as at 1 July 2017



Maritime Transport (Oil Pollution Levies) Order 2016 (LI 2016/276)

Patsy Reddy, Governor-General

Order in Council

At Wellington this 21st day of November 2016

Present:

Her Excellency the Governor-General in Council

This order is made under section 333(1) of the Maritime Transport Act 1994—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister made in accordance with section 333(4) of that Act.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry of Transport.

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Order

1 Title

This order is the Maritime Transport (Oil Pollution Levies) Order 2016.

2 Commencement

This order comes into force on 1 January 2017.

3 Revocation of clauses 23 to 30 and cross-heading

Clauses 23 to 30 and the cross-heading above clause 23 are revoked on the close of 30 June 2017.

4 Interpretation

In this order, unless the context otherwise requires,—

Act means the Maritime Transport Act 1994

contributing ship has the meaning given to it by section 329 of the Act, but does not include a ship that—

- (a) is 24 metres or less in length; or
- (b) operates exclusively in fresh water

Director means the Director of Maritime New Zealand

domestic, in relation to a ship, means a ship that is a New Zealand ship

foreign, in relation to a ship, means a ship that is not a New Zealand ship

FPSO means a floating vessel used in the production, storage, and offloading of oil

gross tons means, in relation to a ship, the gross tons of that ship determined or recognised in accordance with the provisions of the Act or any maritime rules but without any reduction on account of segregated ballast tanks

in bulk means, in relation to a ship's carriage of a cargo of oil, loaded onto or discharged from the ship by a pipeline system

master means a person (except a pilot) having command or charge of a ship

New Zealand fishing vessel has the meaning given to it by section 2(1) of the Fisheries Act 1996

oil tanker means a ship that carries oil in bulk as cargo

out of commission means, in relation to a ship,—

- (a) being incapable of operation as a result of being wrecked, stranded, or disabled while—
 - (i) in a New Zealand port; or
 - (ii) on the New Zealand coast; or
 - (iii) proceeding from one New Zealand port to another; or
- (b) being prohibited from operation by the Director exercising his or her powers under the Act; or
- (c) being prevented from operation by an employment relationship problem (for example, a strike or a lockout)

persistent oil includes crude oil, fuel oil, lubricating oil, and heavy diesel oil
year means the 12-month period beginning on 1 July in any calendar year.

Oil pollution and capability levies

5 Purposes of levies

- (1) The levies imposed by this order are oil pollution levies intended generally to provide money for the New Zealand Oil Pollution Fund to be applied by it for the purposes set out in section 331(1) of the Act.
- (2) The levies described as capability levies are imposed particularly to support expenditures for the purposes set out in section 331(1)(b) of the Act and, more particularly, to support New Zealand's oil pollution response capability or oil pollution response systems including capital expenditures to purchase or upgrade oil pollution response equipment.

6 Oil pollution levies: contributing ships

- (1) Oil pollution levies are imposed for each year that begins on or after 1 July 2017 with respect to every contributing ship within 1 or more classes specified in the first column of the Schedule.
- (2) Oil pollution levies for a year for a ship that belongs to a class or classes specified in the first column of the Schedule are calculated as set out in the second column of the Schedule in the corresponding row or rows.
- (3) For a domestic ship, an oil pollution levy is a single annual levy for the year.
- (4) For a domestic oil tanker, an oil pollution levy with respect to carrying oil as cargo is to be determined initially on the basis of an estimate of oil to be carried as cargo in the year and to be adjusted at the end of the year to reflect the actual amount carried.
- (5) For a foreign ship, an oil pollution levy is a per entry levy payable on each entry during the year of the ship into a New Zealand port from outside the harbour limits of that port.

7 Oil pollution levies: contributing oil sites

An oil pollution levy is imposed for each year that begins on or after 1 July 2017 with respect to every contributing oil site within one of the following classes in the amount specified:

- (a) for a FPSO, \$85,186:
- (b) for an offshore installation that is not an FPSO, \$8,888.89:
- (c) for an oil pipeline, \$8,888.89:
- (d) for an exploration oil well, \$8,888.89.

8 Capability levies: contributing ships

- (1) Capability levies are imposed for each of the years in the period beginning on 1 July 2017 and ending on 30 June 2022 with respect to every contributing ship within 1 or more classes specified in the first column of the Schedule.
- (2) Capability levies for a year for a ship that belongs to a class or classes specified in the first column of the Schedule are calculated as set out in the third column of the Schedule in the corresponding row or rows.
- (3) For a domestic ship, a capability levy is a single annual levy for the year.
- (4) For a domestic oil tanker, a capability levy with respect to carrying oil as cargo is to be determined initially on the basis of an estimate of oil to be carried as cargo in the year and to be adjusted at the end of the year to reflect the actual amount carried.
- (5) For a foreign ship, a capability levy is a per entry levy payable on each entry during the year of the ship into a New Zealand port from outside the harbour limits of that port.

9 Capability levies: contributing oil sites

A capability levy is imposed for each of the years in the period beginning on 1 July 2017 and ending on 30 June 2022 with respect to every contributing oil site within one of the following classes in the amount specified:

- (a) for an FPSO, \$19,814;
- (b) for an offshore installation that is not an FPSO, \$281;
- (c) for an oil pipeline, \$226;
- (d) for an oil exploration well, \$63.

10 Reduced proportional levy if use arises after 1 July

- (1) Despite clauses 6 to 9, a levy imposed under any of those clauses for a year in respect of a domestic ship or a contributing oil site is to be reduced to a proportional amount calculated in accordance with subclause (2) if,—
 - (a) in the case of a domestic ship, its first ever entry into a New Zealand port occurred after 1 July in the year; and
 - (b) in the case of a contributing oil site, it first commenced operation after 1 July in the year.
- (2) The amount of the reduced proportional levy is to be calculated in accordance with the following formula:

$$\text{FullLevy} \times \text{DaysLeftinYear} \div 365$$

where—

FullLevy is the full annual levy otherwise determined under the applicable clause of clauses 6 to 9

DaysLeftinYear is the number of days remaining in the year from and including, in the case of a domestic ship, the date of the ship's first ever entry into a New Zealand port and, in the case of a contributing oil site, the date on which it first commenced operation.

11 GST

The amounts payable as levies under this order are exclusive of any goods and services tax.

12 Liability for levies

- (1) The owners and masters of a contributing ship during a period in respect of which a levy is imposed by this order with respect to the ship are jointly and severally liable for the levy.
- (2) The owners of a contributing oil site during the period in respect of which a levy is imposed by this order with respect to the site are jointly and severally liable for the levy.

13 When levies payable

Except as expressly provided otherwise, the due date for payment of any levy imposed under this order is the 20th day of the month after the date on which an invoice for the levy is issued.

Refunds and exceptions

14 Refunds on change of use

- (1) Despite clauses 6, 8, and 10, the Director may, on application, refund an amount calculated in accordance with subclause (2) if—
 - (a) a levy imposed under any of those clauses has been paid in respect of a contributing ship for a year; and
 - (b) the Director is satisfied that, at the date of the application, the use of the ship has changed so that the ship no longer falls within the class of ship with respect to which the levy was determined.
- (2) The amount of the refund is to be calculated in accordance with the following formula:

$$\text{LevyPaid} \times \text{DaysLeft} \div \text{DaysLevied}$$

where—

LevyPaid is the amount of the levy paid

DaysLeft is the number of days remaining in the year from and including the date of the application

DaysLevied is 365 in the case of a levy determined under clause 6 or 8 and, in the case of a levy determined under clause 10, is the number of days used as the DaysLeftinYear in the calculation under that clause.

15 Refunds for ships laid up

- (1) Despite clauses 6, 8, and 10, the Director may, on application, refund to the applicant an amount calculated in accordance with subclause (2) if a levy imposed for a year under any of those clauses in respect of a contributing ship has been paid and the Director is satisfied that the contributing ship has been out of commission—or laid up for survey or repairs—for a period of at least 30 consecutive days during the year.
- (2) The amount of the refund is to be calculated in accordance with the following formula:

$$\text{LevyPaid} \times \text{DaysOut} \div \text{DaysLevied}$$

where—

LevyPaid is the amount of the levy paid

DaysOut is the number of consecutive days during which the contributing ship has been out of commission or laid up

DaysLevied is 365 in the case of a levy determined under clause 6 or 8 and, in the case of a levy determined under clause 10, is the number of days used as the DaysLeftinYear in the calculation under that clause.

16 Refunds for ships not entering port during year

Despite clauses 6 and 8, the Director may, on application, refund the entirety of a levy imposed for a year under either of those clauses in respect of a contributing ship if the levy has been paid and the Director is satisfied that the contributing ship has not entered a New Zealand port during the year.

17 Refunds for certain oil sites

- (1) Despite clauses 7, 9, and 10, the Director may, on application, refund to the owner of a contributing oil site an amount calculated in accordance with subclause (2) if—
 - (a) a levy imposed for a year under any of those clauses in respect of the contributing oil site has been paid; and
 - (b) the Director is satisfied that the contributing oil site has not been operating for a period of at least 30 consecutive days during the year.
- (2) The amount of the refund is to be calculated in accordance with the following formula:

$$\text{LevyPaid} \times \text{DaysNotOperating} \div \text{DaysUsedforLevy}$$

where—

LevyPaid is the amount of the levy paid

DaysNotOperating is the number of consecutive days during which the contributing oil site has not been operating

DaysUsedforLevy is 365 in the case of a levy determined under clause 7 or 9 and, in the case of a levy determined under clause 10, is the number of days used as the DaysLeftinYear in the calculation under that clause.

18 Exception for exit and re-entry due to weather

Despite any other provision in this order, if a contributing ship that has entered a New Zealand port is compelled by adverse weather conditions 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 levy is payable in respect of that re-entry.

19 Right to deduct other levies from refunds

Without affecting any other method of recovery, the Director may deduct from any refund calculated in accordance with this order the amount of any other oil pollution levy or capability levy that is owing and unpaid.

Varying levies or payments

20 Election to pay annual levies

- (1) The owner or master of a foreign ship that does not carry a cargo of more than 2 000 tonnes of oil in bulk may, by written notice to the Director, elect to pay the annual levy that would apply to it if it were a domestic ship instead of the per entry levy that otherwise applies to it as a foreign ship.
- (2) When an election has been made and the annual levy for the year is paid, no levy is payable in respect of any entry by the foreign ship into a New Zealand port during the year.

21 Levies may be paid by instalment

- (1) A person who is liable for 1 or more annual levies under this order may apply to the Director for authority to pay the levy or levies in monthly or quarterly instalments if the total amount of any annual levies payable by the person under this order and under the Maritime Levies Regulations 2016 for the applicable year is \$50,000 or more.
- (2) The Director must approve the application if—
 - (a) the Director is satisfied that the person will pay the account in monthly or quarterly instalments; and
 - (b) the application was made no more than 10 days after the date of issuance of the most recent invoice for a relevant levy under this order or under the Maritime Levies Regulations 2016; and
 - (c) an application fee of \$112.50 (inclusive of goods and services tax) has been paid.

- (3) For the purposes of subclause (2)(a), the Director may consider the payment history of the person in relation to any levies, fees, or charges previously incurred by the person under the Act or regulations made under the Act.
- (4) Despite subclause (2)(c), only the application fee required under regulation 15(1)(c) of the Maritime Levies Regulations 2016 is payable if applications for authority to pay levies monthly or quarterly, as the case may be, are made concurrently under this clause and under regulation 14 of the Maritime Levies Regulations 2016.
- (5) A person whose application to pay by monthly instalments has been approved must—
 - (a) pay the levy or levies for the year in 12 equal amounts; and
 - (b) make the first and second payments on or before 20 August of the year; and
 - (c) make the remaining 10 payments on the first day of each succeeding month of the year.
- (6) A person whose application to pay by quarterly instalments has been approved must pay the levy or levies for the year in 4 equal payments made on or before 30 September, 31 December, 31 March, and 30 June, respectively, in the year.

Revocation

22 Revocation

The Maritime Transport (Oil Pollution Levies) Order 2013 (SR 2013/154) is revoked.

Levies for part year: 1 January 2017 to 30 June 2017

[Revoked]

Heading: revoked, on the close of 30 June 2017, by clause 3.

23 Definition

[Revoked]

Clause 23: revoked, on the close of 30 June 2017, by clause 3.

24 Oil pollution levies for Period: contributing ships

[Revoked]

Clause 24: revoked, on the close of 30 June 2017, by clause 3.

25 Oil pollution levies for Period: contributing oil sites

[Revoked]

Clause 25: revoked, on the close of 30 June 2017, by clause 3.

26 Capability levies for Period: contributing ships*[Revoked]*

Clause 26: revoked, on the close of 30 June 2017, by clause 3.

27 Capability levies for Period: contributing oil sites*[Revoked]*

Clause 27: revoked, on the close of 30 June 2017, by clause 3.

28 Reduced proportional levy where use arises after 1 January 2017*[Revoked]*

Clause 28: revoked, on the close of 30 June 2017, by clause 3.

29 Application of clauses 14 to 17, 20, and 21 in relation to levies under clauses 24 to 28*[Revoked]*

Clause 29: revoked, on the close of 30 June 2017, by clause 3.

30 Refund of part of former annual levy*[Revoked]*

Clause 30: revoked, on the close of 30 June 2017, by clause 3.

Schedule

Rates of levy

cls 6, 8, 24, 26

Class of ship	Oil pollution levy	Capability levy
Domestic oil tanker, non-persistent oil carried as cargo	37.92 cents × number of tonnes of non-persistent oil carried as cargo in the year	21.11 cents × number of tonnes of non-persistent oil carried as cargo in the year
Domestic oil tanker, persistent oil carried as cargo	36.89 cents × number of tonnes of persistent oil carried as cargo in the year	20.54 cents × number of tonnes of persistent oil carried as cargo in the year
Domestic ship using bunker fuel (other than a New Zealand fishing vessel)	265.40 cents × number of gross tons of the ship	147.79 cents × number of gross tons of the ship
Foreign oil tanker, non-persistent oil carried as cargo	13.31 cents × number of tonnes of non-persistent oil carried as cargo (per entry)	7.41 cents × number of tonnes of non-persistent oil carried as cargo (per entry)
Foreign oil tanker, persistent oil carried as cargo	31.53 cents × number of tonnes of persistent oil carried as cargo (per entry)	17.56 cents × number of tonnes of persistent oil carried as cargo (per entry)
Foreign ship using bunker fuel	0.26 cents × number of gross tons of the ship (per entry)	0.14 cents × number of gross tons of the ship (per entry)
New Zealand fishing vessel	62.78 cents × number of gross tons of the vessel	34.96 cents × number of gross tons of the vessel

Reprinted as at
1 July 2017

Maritime Transport (Oil Pollution Levies) Order 2016

Schedule

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 24 November 2016.

Reprints notes

1 *General*

This is a reprint of the Maritime Transport (Oil Pollution Levies) Order 2016 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Maritime Transport (Oil Pollution Levies) Order 2016 (LI 2016/276): clause 3