

Pollution of Waters by Oil and Noxious Substances Regulations 2007

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Pollution of Waters by Oil and Noxious Substances Act 1987*.

3 September 2007

W. J. E. COX

Governor

By His Excellency's Command,

PAULA WRIEDT

Minister for Tourism, Arts and the Environment

PART 1 - Preliminary

1. Short title

These regulations may be cited as the *Pollution of Waters by Oil and Noxious Substances Regulations 2007*.

2. Commencement

These regulations take effect on the seventh day after the day on which their making is notified in the *Gazette*.

3. Interpretation

(1) In these regulations –

Act means the *Pollution of Waters by Oil and Noxious Substances Act 1987*;

MO Part 91 means Marine Orders Part 91, Issue 5, entitled "Marine Pollution Prevention – Oil", issued as an attachment to Commonwealth Order No. 15 of 2006;

MO Part 93 means Marine Orders Part 93, Issue 5, entitled "Marine Pollution Prevention – Noxious Liquid Substances", issued as an attachment to Commonwealth Order No. 14 of 2006;

MO Part 94 means Marine Orders Part 94, Issue 4, entitled "Marine Pollution Prevention – Packaged Harmful Substances", issued as an attachment to Commonwealth Order No. 5 of 2005.

(2) In these regulations, a reference to a form by number is a reference to the form so numbered in Schedule 1.

(3) In these regulations, a reference to a Commonwealth Order by number and year is a reference to the Order of that number and year made pursuant to section 425(1AA) of the *Navigation Act 1912* of the Commonwealth and section 34(1) of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth.

(4) An expression that is used in these regulations and in the Convention (whether or not a particular meaning is assigned to it by the Convention) has, in these regulations, the same meaning as in the Convention.

4. Prescribed office for the purposes of section 3(2)(b) of Act

For the purposes of sections 3(2)(b), 8, 13, 20, 25, 25C, 25F, 25H and 25I of the Act, the following offices are prescribed:

(a) Director, Environment Protection Authority established under section 18 of the *Environmental Management and Pollution Control Act 1994*;

(b) Secretary of the Department.

PART 2 - Prevention of Pollution from Ships

Division 1 - Pollution by oil

5. Oil record books

For the purposes of sections 11(2) and (3) of the Act –

(a) an oil tanker is to carry an oil record book in accordance with Form 1 and an oil record book in accordance with Form 2; and

(b) a ship that has a gross tonnage of 400 or more and is not an oil tanker is to carry an oil record book in accordance with Form 1.

6. Prescribed operations for purposes of sections 11(5) and (6) of Act

(1) For the purposes of sections 11(5) and (6) of the Act, each of the following operations, being a machinery space operation, is a prescribed operation:

(a) ballasting or cleaning of an oil fuel tank;

(b) discharge of dirty ballast or cleaning water from an oil fuel tank;

(c) collection and disposal of oil residues (sludge and other oil residues);

(d) discharge overboard or disposal otherwise of bilge water that has accumulated in a machinery space;

(e) bunkering of fuel or bulk lubricating oil.

(2) For the purposes of sections 11(5) and (6) of the Act, each of the following operations, being a cargo or ballast operation, is a prescribed operation:

(a) loading of oil cargo;

(b) internal transfer of oil cargo during a voyage;

(c) unloading of oil cargo;

(d) ballasting of a cargo tank or a dedicated clean ballast tank;

(e) cleaning, including crude oil washing, of a cargo tank;

(f) discharge of ballast from a tank other than a segregated ballast tank;

(g) discharge of water from a slop tank;

(h) closing of all applicable valves or similar devices after slop tank discharge operations;

(i) closing of valves necessary for isolation of a dedicated clean ballast tank from cargo and stripping lines after slop tank discharge operations;

(j) disposal of residues.

7. Prescribed occurrences for purposes of section 11(5) of Act

For the purposes of section 11(5) of the Act, each of the following is a prescribed occurrence:

(a) discharge into the sea of oil or an oily mixture from a ship for the purpose of –

(i) securing the safety of the ship; or

(ii) saving life at sea;

(b) discharge into the sea of oil or an oily mixture as a result of damage to the ship or its equipment;

(c) discharge into the sea of a substance containing oil for the purpose of responding to the discharge into the sea of a marine pollutant;

- (d) failure of an oil discharge monitoring control system;
- (e) failure of oil filtering equipment;
- (f) accidental or other exceptional discharge into the sea of oil not referred to in paragraphs (a) to (c).

8. Fee for deposit of oil record book

A fee of 80 fee units is payable for the deposit of an oil record book of a ship in accordance with section 13(4) of the Act.

Division 2 - Pollution by noxious substances

9. Cargo record books

For the purposes of section 23(3) of the Act, the prescribed form for a cargo record book is Form 3.

10. Prescribed operations for purposes of section 23(5) of Act

For the purposes of section 23(5) of the Act, each of the following operations is a prescribed operation:

- (a) loading of cargo;
- (b) internal transfer of cargo;
- (c) unloading of cargo;
- (d) mandatory prewash in accordance with the ship's procedures and arrangements manual;
- (e) cleaning of a cargo tank other than by mandatory prewash (for example, other prewash operations, final wash or ventilation);
- (f) discharge into the sea of tank washings;
- (g) ballasting of a cargo tank;
- (h) discharge of ballast water from a cargo tank;
- (i) accidental or other exceptional discharge of a noxious liquid substance or a mixture containing such a substance.

11. Prescribed occurrences for purposes of section 23(5) of Act

For the purposes of section 23(5) of the Act, each of the following occurrences is a prescribed occurrence:

(a) discharge into the sea of a noxious liquid substance, or a mixture containing such a substance, for the purpose of securing the safety of the ship or saving life at sea;

(b) discharge into the sea of a noxious liquid substance, or a mixture containing such a substance, as a result of damage to the ship or its equipment;

(c) discharge into the sea of a noxious liquid substance, or a mixture containing such a substance, being –

(i) a discharge for a purpose other than securing the safety of the ship or saving life at sea; or

(ii) an accidental discharge other than a discharge as a result of damage to the ship or its equipment.

12. Fee for deposit of cargo record book

A fee of 80 fee units is payable for the deposit of a cargo record book in accordance with section 25(6) of the Act.

Division 3 - Pollution by packaged harmful substances

13. Application of MO Part 94

Provision 6 of MO Part 94 applies in Tasmania with the following modifications:

(a) the words "By virtue of subsection 267ZC of the Navigation Act," are omitted from provision 6.1;

(b) a reference in provision 6.1 to the Commonwealth is taken to be a reference to Tasmania;

(c) a reference in provision 6.2 to AMSA is taken to be a reference to the Department.

Division 4 - Pollution by garbage

14. Garbage record books

For the purposes of section 25G(3) of the Act, the prescribed form for a garbage record book is Form 4.

15. Prescribed operations and occurrences for purposes of section 25G of Act

For the purposes of section 25G(5) of the Act, each of the following operations and occurrences is prescribed:

- (a) discharge of garbage into the sea;
- (b) discharge of garbage to reception facilities ashore or to other ships;
- (c) incineration of garbage;
- (d) accidental or other exceptional discharge of garbage.

Division 5 - Miscellaneous

16. Prescribed manner of notifying prescribed officer of incident

For the purposes of sections 25I(1) and (3) of the Act, the prescribed manner in which the master of a ship must notify a prescribed officer of an incident in relation to a ship is by a message that –

- (a) commences with the code letters "POLREP" and the name, IMO number and radio call-sign of the ship; and
- (b) is conveyed by –
 - (i) telephone; or
 - (ii) facsimile; or
 - (iii) radio; or
 - (iv) email.

17. Prescribed form for requested report of incident

For the purposes of sections 25I(6) and (7) of the Act –

- (a) the prescribed form for a requested report of an incident in relation to a ship is Form 5; and
- (b) the prescribed time within which that report must be furnished to a prescribed officer is 24 hours immediately following the receipt of the request for the report.

PART 3 - Application of Convention for Prevention of Pollution from Ships

Division 1 - Preliminary

18. Application of Part

This Part applies to –

- (a) a trading vessel proceeding on an intra-State voyage; and
- (b) an Australian fishing vessel proceeding on a voyage other than an overseas voyage; and
- (c) a pleasure vessel.

Division 2 - Prevention of Pollution from Ships Convention (Ships Carrying or Using Oil)

19. Application of MO Part 91

Provisions 7, 8 and 9 of MO Part 91 apply, with the following modifications, to a vessel to which this Part applies:

- (a) a reference in provision 7 or 8 of MO Part 91 to the Commonwealth, or Australia, is taken to be a reference to Tasmania;
- (b) a reference in provision 7, 8 or 9 of MO Part 91 to the Manager, Ship Inspections is taken to be a reference to the Director;
- (c) a reference in provision 8 or 9 of MO Part 91 to an IOPP Certificate is taken to be a reference to a ship construction certificate referred to in section 43 of the Act;
- (d) a reference in provision 7, 8 or 9 of MO Part 91 to section 267B or 267C of the *Navigation Act 1912* of the Commonwealth is taken to be a reference to section 43 of the Act;
- (e) the footnotes in provisions 7, 8 and 9 of MO Part 91 are omitted;
- (f) a reference in provision 7, 8 or 9 of MO Part 91 to section 267D or 267F of the *Navigation Act 1912* of the Commonwealth is taken to be a reference to section 44 of the Act.

20. Notice of alteration or damage to ship

For the purposes of section 44(1) of the Act –

- (a) the prescribed person to whom a notice of alteration or damage to a ship is to be given is the Director; and
- (b) the prescribed form for a notice of alteration or damage to a ship is Form 6.

Division 3 - Prevention of Pollution from Ships Convention (Ships Carrying Noxious Liquid Substances in Bulk)

21. Application of MO Part 93

Provisions 7, 8 and 9 of MO Part 93 apply, with the following modifications, to a vessel to which this Part applies:

- (a) a reference in provision 7 or 8 of MO Part 93 to the Commonwealth, or Australia, is taken to be a reference to Tasmania;
- (b) a reference in provision 8 or 9 of MO Part 93 to an IPP Certificate is taken to be a reference to a chemical tanker construction certificate referred to in section 49 of the Act;
- (c) a reference in provision 8 or 9 of MO Part 93 to the Manager, Ship Inspections is taken to be a reference to the Director;
- (d) the footnotes in provisions 7, 8 and 9 of MO Part 93 are omitted;
- (e) a reference in provision 9 of MO Part 93 to sections 267Q and 267R of the *Navigation Act 1912* of the Commonwealth is taken to be a reference to section 49 of the Act;
- (f) a reference in provision 9.2 of MO Part 93 to section 267S or section 267U of the *Navigation Act 1912* of the Commonwealth is taken to be a reference to section 50 of the Act.

Division 4 - Miscellaneous

22. Alternative fittings, materials &c.

If –

- (a) a provision of MO Part 91 or MO Part 93 applied by this Part requires that a particular fitting, material, appliance or apparatus, or type of fitting, material, appliance or apparatus, is to be fitted to or carried in a vessel; and
- (b) the Director is satisfied that any other fitting, material, appliance or apparatus is at least as effective as that required by that provision –

the Director may allow that other fitting, material, appliance or apparatus to be fitted to or carried in the vessel.

PART 4 - Legislation Rescinded

23.

The amendments effected by this Part have been incorporated into the authorised version of the *Pollution of Waters by Oil and Noxious Substances (Oil and Noxious Liquid Substances in Bulk) Regulations 1989*.

SCHEDULE 1 - Forms

Regulation 3(2)

Form 1

Regulation 5

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Form 2

Regulation 5

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Form 3

Regulation 9

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Form 4

Regulation 14

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Form 5

Regulation 17

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Form 6

Regulation 20

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SCHEDULE 2

The amendments effected by Regulation 23 and this Schedule have been incorporated into the authorised version of the Pollution of Waters by Oil and Noxious Substances (Oil and Noxious Liquid Substances in Bulk) Regulations 1989.

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

Notified in the *Gazette* on 12 September 2007.

These regulations are administered in the Department of Tourism, Arts and the Environment.

Table Of Amendments

| Citation | Serial Number | Date of commencement |
|--|--------------------------|---------------------------------|
| Pollution of Waters by Oil and Noxious Substances Regulations 2007 | S.R. 2007, No. 83 | 19.9.2007 |
| Pollution of Waters by Oil and Noxious Substances Amendment Regulations 2008 | S.R. 2008, No. 52 | 1.7.2008 |