

Oil spills from ships - Who pays?

The costs of responding to ship-sourced oil spills in Australian waters are met by those responsible for the spill through various domestic and international arrangements.

Spills from oil tankers

The costs of oil spills from tankers are covered by a widely accepted international insurance regime involving two international conventions. These conventions are administered by the International Maritime Organization (IMO), a specialised agency of the United Nations.

The International Convention on Civil Liability for Oil Pollution Damage 1992 is based on the principle of “strict liability”. This means that owners of tankers that spill oil are liable regardless of whether or not they were actually at fault, with very few exceptions. As a result, claimants can receive compensation promptly, without the need for lengthy and costly litigation.

The Civil Liability Convention places an obligation on tanker owners to maintain insurance or other financial security specifically to cover pollution damage, and to carry on board each tanker a certificate attesting to the fact that such cover is in force. Most tanker owners arrange this insurance with a Protection and Indemnity Club (P&I Club). The amount of insurance cover required depends on the size of the tanker, and can be up to a maximum of approximately \$A170 million.

The other convention that forms part of this compensation regime is the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, known as the Fund Convention. Supplementary compensation may be available under the Fund Convention where the limit of compensation available under the Civil Liability Convention is exceeded or where the tanker owner cannot be identified, is uninsured or insolvent.

Payments of compensation under the Fund Convention are financed by contributions levied on private companies or other entities that receive, by sea, an annual quantity of more than 150,000 tonnes of crude and/or heavy fuel oil. All major Australian oil companies contribute to the scheme. Additional compensation available under the Fund Convention is approximately \$A1.2 billion.

In summary, the total compensation available under both the Civil Liability and the Fund Conventions is approximately \$A1.4 billion, though this is subject to exchange rate fluctuations.

One of the features of this regime is that compensation is available for loss of income as a direct consequence of an oil spill, for example costs associated with the fishing and tourism industries.

Spills from ships other than oil tankers

The International Convention on Civil Liability for Bunker Oil Pollution Damage 2001, provides for owners of ships over 1000 gross tons to be strictly liable for fuel oil spills and requires them to carry compulsory insurance to cover any pollution damage following such spills. This convention is known as the “Bunkers Convention” and is modelled on the International Convention on Civil Liability for Oil Pollution Damage 1992, as mentioned above. The main difference is that the Bunkers Convention does not have its own limits of liability: instead, it requires insurance be maintained to limits specified in a separate instrument – the Convention on the Limitation of Liability for Maritime Claims. The liability limit depends on the size of the vessel, For a ship of 30,000 gross tons, the limit of liability would be approximately \$A23 million.

Australia also has in place a domestic requirement for all ships between 400 and 1000 gross tons entering or leaving Australian ports to maintain specific insurance to cover the cost of a clean up resulting from the spillage of bunker fuel (used in ships engines) or other oil.

Protection and Indemnity Insurance

The majority of commercial vessels carry comprehensive general insurance coverage through Protection and Indemnity (P & I) Clubs, which covers the shipowners liability for pollution damage described above. P & I Clubs are independent, non-profit making mutual insurance associations, providing cover for their shipowner and charterer members against third party liabilities relating to the use and operation of ships. Clubs cover a wide range of liabilities including personal injury to crew, passengers and others on board, cargo loss and damage, oil pollution, wreck removal and damage to wharves and jetties.

The majority of commercial vessels already carry comprehensive general insurance coverage through P&I Clubs, which would cover them for such incidents. The costs of all major spills in Australian waters have been met by shipowners under these arrangements.

In March 2001 the International Maritime Organization finalised a new convention to apply the principals of

the Civil Liability Convention outlined above to all other types of commercial ships, such as bulk carriers and container ships.

Spills from unidentified vessels

In virtually all major pollution incidents, some form of maritime casualty is involved. The ship that has caused the spill is therefore readily identified and costs met under the insurance arrangements outlined above. Occasionally, however, significant costs are incurred in cleaning up an oil spill where the source of the spill cannot be identified or, in rare cases, the limit of liability is exceeded.

In such cases, the Commonwealth reimburses the costs incurred by State or Territory agencies in responding to the spill using funds obtained from a levy applied to all ships visiting Australian ports. This levy is part of Australia's National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances, known as the National Plan. A separate [Fact Sheet](#) is available dealing with the National Plan.

For more information see:

International Maritime Organization - www.imo.org

International Oil Pollution Compensation Fund - www.iopcfund.org

Australian Maritime Safety Authority - www.amsa.gov.au (Marine Environment Protection)