



## Marine Notice 19/2011

### Increased Penalties for Pollution Offences

The purpose of this Marine Notice is to provide information to ship owners, operators and masters about increases to existing penalties for pollution offences, as well as new criminal and civil penalty provisions for ships causing pollution or damage to the marine environment. The changes are the result of amendments to the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* and the *Navigation Act 1912*.

The amendments were contained in the *Maritime Legislation Amendment Bill 2011* which was passed by Parliament on 22 November 2011.

#### **Amendments to the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983***

Maximum penalties for strict liability offences for illegal discharge of oil, oil residues or oily mixtures, have been increased from 500 to 20,000 penalty units (currently \$2.2m for an individual; \$11m for a corporation). These increased penalties are designed to ensure that a fine can be imposed that is proportionate to the degree of harm, as well as provide sufficient deterrent to avoid future harm, and will also bring the Commonwealth penalty in line with those of the Queensland *Transport Operations (Marine Pollution) Act 1995 (Qld)* and the New South Wales *Marine Pollution Act 1987 (NSW)*.

#### **Amendments to the *Navigation Act 1912***

A new Division 12E has been added to Part IV - Ships and Shipping of the *Navigation Act 1912* to create offences where pollution or damage to the marine environment is caused by:

- operating a ship in a manner that causes pollution or damage to the Australian marine environment;
- failing to ensure a ship is operated in a manner that does not cause pollution or damage to the Australian marine environment;

- operating an Australian ship in a manner that causes pollution or damage to the marine environment outside of Australia;
- failing to ensure an Australian ship is operated in a manner that does not cause pollution or damage to the marine environment outside of Australia.

A master is liable to pay a penalty of 600 penalty units (currently \$66,000) if found to contravene the above provisions.

The *Navigation Act 1912* now also provides for an 'aggravated contravention', where the conduct of the master resulted in serious harm to the marine environment or had the potential to cause serious harm to the marine environment.

Criteria indicating serious harm to the marine environment may include the harm itself; the size, sensitivity and significance of the affected environment; whether the harm is reversible; and the measures required to remedy the harm. This provision is based on section 38GB of the *Great Barrier Reef Marine Park Act 1975*.

Where the master is found liable for an aggravated contravention, the civil penalty is 6,000 penalty units (currently \$660,000).

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