



# Transport Legislation Amendment Act 1995

No. 95 of 1995

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**An Act to amend legislation relating to transport, and for  
related purposes**

*[Assented to 27 July 1995]*

The Parliament of Australia enacts:

**Short title**

1. This Act may be cited as the *Transport Legislation Amendment Act 1995*.

**Commencement**

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Part B of Schedule 1 commences immediately before the commencement of the *Audit (Transitional and Miscellaneous) Amendment Act 1995*.

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(3) The following provisions commence on the day on which this Act receives the Royal Assent or 1 July 1995, whichever is later:

(a) Part C of Schedule 1 (except items 4, 5 and 7);

(b) Parts D and F of Schedule 1.

(4) Items 4, 5 and 7 of Part C of Schedule 1 commence on the same day as the *Financial Management and Accountability Act 1995*.

(5) Subject to subsection (9), items 1, 4, 5, 14 and 15 of Part G of Schedule 1 commence on a day or days to be fixed by Proclamation.

(6) Items 4 and 28 to 36 of Part H of Schedule 1 commence on a day or days to be fixed by Proclamation, not earlier than the day on which the instrument of acceptance of the Protocol of 1988 relating to the International Convention on Load Lines, 1966, is lodged by Australia with the Secretary-General of the International Maritime Organization.

(7) Items 5 to 12 and 14 to 27 of Part H of Schedule 1 commence on a day or days to be fixed by Proclamation, not earlier than the day on which the instrument of acceptance of the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974, is lodged by Australia with the Secretary-General of the International Maritime Organization.

(8) Subject to subsection (10), items 37 to 54 and 58 of Part H of Schedule 1 commence on a day to be fixed by Proclamation.

(9) If items 1, 4, 5, 14 and 15 of Part G of Schedule 1, or any of them, do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

(10) If items 37 to 54 and 58 of Part H of Schedule 1 do not commence within the period of 6 months beginning on the day on which the International Convention on Salvage, 1989 enters into force for Australia, they commence on the first day after the end of that period.

### **Amendments of Acts**

3. The Acts specified in Schedule 1 are amended as set out in that Schedule and, so far as the *Protection of the Sea Legislation Amendment Act 1986* is concerned, in Schedule 2.

### **Application—Australian Maritime Safety Authority dividend for 1994-95**

4. Section 38 of the *Australian Maritime Safety Authority Act 1990* applies in relation to the financial year ending on 30 June 1995 as if that section had not been repealed, and section 27 of that Act had not been amended, by this Act.

**Application—Australian Maritime Safety Authority annual report for 1994-95**

5. The amendment of section 44 of the *Australian Maritime Safety Authority Act 1990* made by item 17 of Part C of Schedule 1 to this Act does not apply in relation to the annual report for the year ending on 30 June 1995.

**Application—Chief Executive Officer of Australian Maritime Safety Authority**

6. The amendment made by item 18 of Part C of Schedule 1 applies in relation to Chief Executive Officers of the Australian Maritime Safety Authority appointed after the commencement of the amendment.

**Transitional—Australian Maritime Safety Authority staff**

7.(1) A person who, immediately before the commencement of section 3, so far as it relates to the amendment of the *Australian Maritime Safety Authority Act 1990* set out in item 19 of Part C of Schedule 1, was appointed or employed by the Authority as provided for by section 55 of that Act is to be taken, immediately after the commencement, to be appointed or employed by the Australian Maritime Safety Authority, on the same terms and conditions, under section 55 of that Act as amended by this Act.

(2) An officer (within the meaning of subsection 7(1) of the *Public Service Act 1922*) to whom subsection (1) of this section applies is to be taken, for the purposes of Part IV of that Act, to be an officer (within the meaning of Division 9A of Part III of that Act) specified, or included in a class of such officers specified, in a declaration under subsection 81C(1) of that Act.

**Certain declarations, orders, regulations and approvals under the *Motor Vehicle Standards Act 1989* to continue in force**

8.(1) Any declarations made for the purposes of the definition of “road motor vehicle” in subsection 5(1) of the *Motor Vehicle Standards Act 1989* and in force immediately before the commencement of the amendment of that definition made by this Act, continue in force, after that commencement, as if they were determinations duly made under section 5B of that Act as amended by this Act.

(2) Any orders made under subsection 7(1) of the *Motor Vehicle Standards Act 1989* and in force immediately before the commencement of the amendments of that subsection made by this Act continue in force, after that commencement, as if they were determinations duly made under subsection 7(1) of that Act as amended by this Act.

(3) Any regulations made under subsection 10(1) of the *Motor Vehicle Standards Act 1989* and in force immediately before the repeal of section 10 of that Act continue in force, after that repeal, as if they were determinations duly made under subsection 10(1) of that Act as amended by this Act.

(4) A compliance plate affixed under arrangements made under section 10 of the *Motor Vehicle Standards Act 1989* as in force immediately before the commencement of section 14A of that Act as amended by this Act, is, after that commencement, taken to be an identification plate for the purposes of section 10 of that Act as amended by this Act.

(5) Any approvals given under subsection 10(2) of the *Motor Vehicle Standards Act 1989* and in force immediately before the repeal of section 10 of that Act continue in force, after that repeal, as if they were approvals duly given under subsection 10A(3) of that Act as amended by this Act.

(6) Any approvals given under subsection 14(2) of the *Motor Vehicle Standards Act 1989* and in force immediately before the commencement of the amendments of section 14 made by this Act continue in force, after that commencement, as if they were approvals duly given under section 14A of that Act as amended by this Act.

#### **Application provision relating to the *Navigation Act 1912***

9. A power exercised by the Australian Maritime Safety Authority under section 329 of the *Navigation Act 1912* as in force immediately before the repeal of Division 6 of Part VII of that Act, is taken, after that repeal, to have been exercised under section 314A of that Act as amended by this Act.

#### **Application provision relating to the *Ships (Capital Grants) Act 1987***

10. The amendments of sections 3 and 7 of the *Ships (Capital Grants) Act 1987* do not apply in respect of a ship if the construction, or the shipowner's purchase, of the ship was arranged by the shipowner before the day on which those amendments come into force.

#### **Application of amendments relating to appointments**

11.(1) The amendments of subsections 36A(1) and (2) and 36F(1) of the *Australian National Railways Commission Act 1983* made by this Act apply in relation to appointments made after the commencement of those amendments.

(2) The amendment of subsection 58(1) of the *Federal Airports Corporation Act 1986* made by this Act applies to appointments made after the commencement of that amendment.

#### **Application of amendments relating to interim dividends**

12.(1) The amendment made by this Act that inserts section 57A into the *Australian National Railways Commission Act 1983* applies as follows:

- (a) if the amendment commences on the first day of a financial year—it applies to that financial year and to subsequent financial years;
- (b) if paragraph (a) does not apply—it applies to the first financial year that starts after the commencement of the amendment and to subsequent financial years.

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(2) The amendment made by this Act that inserts section 46A into the *Federal Airports Corporation Act 1986* applies as follows:

- (a) if the amendment commences on the first day of a financial year—it applies to that financial year and to subsequent financial years;
- (b) if paragraph (a) does not apply—it applies to the first financial year that starts after the commencement of the amendment and to subsequent financial years.

**Further formal amendments**

13. The *Navigation Act 1912* and the *Protection of the Sea (Civil Liability) Act 1981* are further amended as set out in Schedule 3.

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**SCHEDULE 1**

Section 3

**AMENDMENTS OF ACTS**

**PART A**

**AMENDMENTS OF THE AIR NAVIGATION ACT 1920**

- 1. Paragraph 11A(2)(a):**  
Omit “, transfer”.
- 2. Paragraph 11A(2)(b):**  
Omit “, transfer”.
- 3. Subparagraph 11A(2)(c)(iii):**  
Omit “international airline;”, substitute “international airline.”.
- 4. Subparagraph 11A(2)(c)(iv):**  
Omit the subparagraph.

**PART B**

**AMENDMENTS OF THE AUDIT (TRANSITIONAL AND MISCELLANEOUS) AMENDMENT ACT 1995**

- 1. Item 197 of Schedule:**  
Omit “Subsection 19(3)”, substitute “Subsection 18(3)”.
- 2. Items 201, 202 and 204 of Schedule:**  
Omit the items.

**PART C**

**AMENDMENTS OF THE AUSTRALIAN MARITIME SAFETY AUTHORITY ACT 1990**

- 1. After section 2:**  
Insert:

**Main objects of this Act**

“2A. The main objects of this Act are:

- (a) to promote maritime safety; and
- (b) to protect the marine environment from:
  - (i) pollution from ships; and
  - (ii) other environmental damage caused by shipping; and
- (c) to promote the efficient provision of services by the Authority.”.

**SCHEDULE 1—continued**

**2. Subsection 9(3):**

Omit the subsection.

**3. After section 9:**

Insert:

**Minister may give Authority notices about its strategic direction etc.**

“9A.(1) The Minister may, from time to time, by notice in writing to the Authority, advise the Authority of his or her views in relation to the following matters:

- (a) the appropriate strategic direction of the Authority;
- (b) the manner in which the Authority should perform its functions.

“(2) The Authority must, in performing its functions, take account of notices given to it under subsection (1).

“(3) The members must, in preparing each corporate plan, take account of notices given to the Authority under subsection (1).

“(4) The Authority must include in its annual report under section 63H of the *Audit Act 1901* for a financial year:

- (a) a summary of notices given to the Authority, in that financial year, under subsection (1); and
- (b) a summary of action taken in that financial year by the Authority because of notices given to the Authority under subsection (1) in that or any other financial year.

**Minister may direct Authority to give documents and information to nominee**

“9B.(1) In this section:

**‘ministerial nominee’** means a person whose responsibilities or duties include advising the Minister about the performance and strategies of the Authority.

“(2) The Minister may direct the Authority to give to a specified ministerial nominee any documents or information relating to the operations of the Authority that the nominee requests.

“(3) The Authority must comply with a direction by the Minister under subsection (2).

“(4) The Authority must include in its annual report under section 63H of the *Audit Act 1901* for a financial year particulars of any directions given to the Authority by the Minister under subsection (2) in that financial year.”.

**SCHEDULE 1—continued**

**4. Subsection 9A(4):**

Omit “The Authority must include in its annual report under section 63H of the *Audit Act 1901*”, substitute “The members must include in their annual report under section 9 of the *Commonwealth Authorities and Companies Act 1995*”.

**5. Subsection 9B(4):**

Omit “The Authority must include in its annual report under section 63H of the *Audit Act 1901*”, substitute “The members must include in their annual report under section 9 of the *Commonwealth Authorities and Companies Act 1995*”.

**6. After subsection 21(3):**

Insert:

“(3A) If the Minister is of the opinion that:

- (a) the Authority has failed to comply with subsection 9B(3); or
- (b) the members have failed to comply with subsection 25(4);

the Minister may terminate the appointment of all members or specified members.”.

**7. Subsection 21(3A):**

Omit the subsection, substitute:

“(3A) If the Minister is of the opinion that:

- (a) the Authority has failed to comply with section 9B of this Act; or
- (b) the members have failed to comply with:

- (i) subsection 25(4) of this Act; or
- (ii) subsection 13(2) or 15(1) of the *Commonwealth Authorities and Companies Act 1995*; or
- (iii) paragraph 16(1)(a) or (b) of the *Commonwealth Authorities and Companies Act 1995*;

the Minister may terminate the appointment of all members or specified members.”.

**8. Sections 25 and 26:**

Repeal the sections, substitute:

**Corporate plan**

“25.(1) The members must prepare a corporate plan at least once a year and give it to the Minister.

“(2) If the Minister asks the members to give the plan to the Minister by a specified day, the members must give the plan to the Minister by that day.



**SCHEDULE 1—continued**

“(3) The plan must cover a period of at least 3 years.

“(4) The members must keep the Minister informed about:

- (a) significant changes to the plan; and
- (b) matters that arise that might significantly affect the achievement of the objectives of the plan.

“(5) The plan must include details of the following matters:

- (a) assumptions about the Authority’s operational environment;
- (b) the Authority’s strategies;
- (c) performance indicators for the Authority;
- (d) review of performance against previous corporate plans;
- (e) analysis of risk factors likely to affect safety in the maritime industry;
- (f) human resource strategies and industrial relations strategies.

“(6) The plan must also cover any other matters required by the Minister, which may include further details about the matters in subsection (5).

“(7) In preparing the plan, the members must take account of notices given under section 9A.

**Minister’s response to corporate plan**

“26.(1) The Minister must respond to a corporate plan within 60 days of being given the plan.

“(2) The Minister’s response may include a direction to the members to vary the plan.

“(3) A direction under subsection (2) must be in writing and must set out its reasons.

“(4) If directing a variation of the corporate plan, the Minister must consider:

- (a) the objectives and policies of the Commonwealth Government; and
- (b) the objects of this Act; and
- (c) any other considerations the Minister thinks appropriate.

“(5) If the Minister’s response includes a direction to vary the corporate plan, the members must prepare a revised plan and give it to the Minister within 28 days of being given the response.”.

**9. Section 27:**

Omit “preparing the financial plan, the Authority”, substitute “including details of the performance indicators for the Authority in the corporate plan, the members”.

Note: The heading to section 27 is altered by omitting “Financial targets and performance” and substituting “Performance”.

**SCHEDULE 1—continued**

**10. Paragraph 27(e):**

Omit the paragraph, substitute:

“(e) the performance of functions of the Authority that are directly funded by the Commonwealth; and”.

**11. Paragraphs 27(h) and (j):**

Omit the paragraphs.

**12. Paragraph 27(k):**

Omit the paragraph, substitute:

“(k) any other consideration affecting the performance of the Authority that the members think appropriate.”.

**13. Section 29:**

Repeal the section.

**14. Paragraph 37(2)(b):**

Omit “tax; or”, substitute “tax.”.

**15. Paragraph 37(2)(c):**

Omit the paragraph.

**16. Section 38:**

Repeal the section.

**17. Subsection 44(2):**

Omit “financial targets and”.

**18. Section 51:**

Repeal the section, substitute:

**Remuneration and allowances of Chief Executive Officer**

“51.(1) The Chief Executive Officer is to be paid the remuneration that is determined by the Remuneration Tribunal. However, if no determination of that remuneration by the Tribunal is in operation, the Chief Executive Officer is to be paid the remuneration that is prescribed by the regulations.

“(2) The Chief Executive Officer is to be paid the allowances that are prescribed by the regulations.

“(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

**Leave of absence**

“51A.(1) Subject to section 87E of the *Public Service Act 1922*, the Chief Executive Officer has the recreation leave entitlements that are determined by the Remuneration Tribunal.

**SCHEDULE 1—continued**

“(2) The Minister may grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.”.

**19. Section 55:**

Repeal the section, substitute:

**Staff of Authority**

“55. The staff of the Authority are to be persons appointed or employed by the Authority on such terms and conditions as are determined by the Authority in writing.”.

**20. Section 60:**

Omit “29 or 38,”.

**PART D**

**AMENDMENTS OF THE AUSTRALIAN NATIONAL RAILWAYS  
COMMISSION ACT 1983**

**1. After section 20:**

Insert:

**Minister may give Commission notices about its strategic  
direction etc.**

“20A.(1) The Minister may, from time to time, by notice in writing to the Commission, advise the Commission of his or her views in relation to the following matters:

- (a) the appropriate strategic direction of the Commission;
- (b) the manner in which the Commission should perform its functions.

“(2) The Commission must, in performing its functions, take account of notices given to it under subsection (1).

“(3) The Commission must, in developing objectives, strategies and policies under subsection 22(1), take account of notices given to it under subsection (1) of this section.

“(4) The Commission must include in the annual report for a financial year:

- (a) a summary of notices given to the Commission, in that financial year, under subsection (1); and
- (b) a summary of action taken by the Commission, in that financial year, because of notices given to the Commission under subsection (1) in that or any other financial year.

**SCHEDULE 1—continued**

**Minister may direct Commission to give documents and information to nominee**

“20B.(1) In this section:

‘**ministerial nominee**’ means a person whose responsibilities or duties include advising the Minister about the performance and strategies of the Commission.

“(2) The Minister may direct the Commission to give to a specified ministerial nominee any documents or information relating to the operations of the Commission that the nominee requests.

“(3) The Commission must comply with a direction by the Minister under subsection (2).

“(4) The Commission must include in the annual report for a financial year particulars of any directions given to the Commission by the Minister under subsection (2) in that financial year.”.

**2. After subsection 32(3):**

Insert:

“(3A) If:

- (a) the Minister is of the opinion that the Commission has failed to comply with section 20B of this Act; and
- (b) the Minister proposes that the appointment of all or specified Commissioners be terminated;

the Governor-General is to terminate the appointment of all Commissioners, or the specified Commissioners, as the case may be.”.

**3. Subsection 36A(1):**

Omit the subsection, substitute:

“(1) The Managing Director is to be appointed by the Commission.”.

**4. Subsection 36A(2):**

Omit “The Minister shall”, substitute “The Commission must”.

**5. Subsection 36F(1):**

Omit “The Minister”, substitute “The Commission”.

**6. Before subparagraph 55(1)(a)(i):**

Insert:

“(ia) a specified rate of return on the Commission’s assets; or”.

**7. Subparagraph 55(1)(a)(i):**

Add at the end:

“or”.

**SCHEDULE 1—continued**

**8. After section 57:**

Insert:

**Interim dividends**

“57A.(1) In this section:

**‘interim dividend’**, in relation to a financial year, means an amount paid on account of the dividend that may become payable under section 57 for the financial year.

“(2) The Commission must, before 1 March in each financial year, by notice in writing given to the Minister, recommend that the Commission pay a specified interim dividend, or not pay any interim dividend, to the Commonwealth for the financial year.

“(3) In making a recommendation, the Commission must have regard to:

- (a) the need to ensure that the Commonwealth receives a reasonable return on the capital of the Commission used in the Commission’s operations in the financial year; and
- (b) such other commercial matters as the Commission considers relevant.

“(4) The Minister must, within 45 days after receiving a recommendation, by written notice to the Commission, either:

- (a) approve the recommendation; or
- (b) give directions to the Commission in relation to the payment of an interim dividend.

“(5) If the Minister gives the Commission a direction under paragraph (4)(b), he or she must inform the Commission, by notice in writing, of the reasons for the direction.

“(6) If an interim dividend is approved or directed under subsection (4), the Authority must pay the interim dividend to the Commonwealth by 15 June in the financial year.”.

**PART E**

**AMENDMENTS OF THE CIVIL AVIATION (CARRIERS’  
LIABILITY) ACT 1959**

**1. After section 11:**

Insert:

**SCHEDULE 1—continued**

**Limitation of liability for Australian international carriers**

“11A.(1) Despite the terms of paragraph 1 of Article 22 of the Convention, but subject to the regulations relating to passenger tickets, the liability of an Australian international carrier under this Part in respect of each passenger, by reason of the passenger’s injury or death resulting from an accident, is limited to:

- (a) if neither paragraph (b) nor (c) applies—260,000 SDRs; or
- (b) if, at the date of the accident, a regulation was in force prescribing a number of SDRs that exceeds 260,000 for the purpose of this section and paragraph (c) does not apply—the number of SDRs so prescribed; or
- (c) if, at the date of the accident, no regulation was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds 260,000—the number of SDRs so specified; or
- (d) if, at the date of the accident, a regulation prescribing a number of SDRs exceeding 260,000 was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds the number so prescribed—the number of SDRs so specified.

“(2) In this section:

**‘Australian international carrier’** means:

- (a) a carrier designated, nominated or otherwise authorised by Australia under a bilateral arrangement to operate scheduled international air services; or
- (b) a carrier operating a non-scheduled international flight permitted under section 13A of the *Air Navigation Act 1920*;

**‘bilateral arrangement’** has the same meaning as in section 11A of the *Air Navigation Act 1920*.”.

**2. After section 21:**

Insert:

**Limitation of liability for Australian international carriers**

“21A.(1) Despite the terms of paragraph 1 of Article 22 of the Convention, but subject to the regulations relating to passenger tickets, the liability of an Australian international carrier under this Part in respect of each passenger, by reason of the passenger’s injury or death resulting from an accident, is limited to:

- (a) if neither paragraph (b) nor (c) applies—260,000 SDRs; or

**SCHEDULE 1—continued**

“(2C) If the Minister is of the opinion that the Board has failed to comply with section 42B, the Minister may terminate the appointment of all members (other than the Chief Executive Officer) or specified members (other than the Chief Executive Officer).”.

**2. After section 42:**

Insert in Part V:

**Minister may give Corporation notices about its strategic direction etc.**

“42A.(1) The Minister may, from time to time, by notice in writing to the Corporation, advise the Corporation of his or her views in relation to the following matters:

- (a) the appropriate strategic direction of the Corporation;
- (b) the manner in which the Corporation should perform its functions.

“(2) The Corporation must, in performing its functions, take account of notices given to it under subsection (1).

“(3) The Board must, in preparing each Corporate plan, take account of notices given to the Corporation under subsection (1).

“(4) The Corporation must include in the annual report for a financial year:

- (a) a summary of notices given to the Corporation, in that financial year, under subsection (1); and
- (b) a summary of action taken in that financial year by the Board or the Corporation because of notices given to the Corporation under subsection (1) in that or any other financial year.

**Minister may direct Corporation to give documents and information to nominee**

“42B.(1) In this section:

‘**ministerial nominee**’ means a person whose responsibilities or duties include advising the Minister about the performance and strategies of the Corporation.

“(2) The Minister may direct the Board to give to a specified ministerial nominee any documents or information relating to the operations of the Corporation that the nominee requests.

“(3) The Board must comply with a direction by the Minister under subsection (2).

“(4) The Corporation must include in the annual report for a financial year particulars of any directions given to the Board by the Minister under subsection (2) in that financial year.”.

**SCHEDULE 1—continued**

- (b) if, at the date of the accident, a regulation was in force prescribing a number of SDRs that exceeds 260,000 for the purpose of this section and paragraph (c) does not apply—the number of SDRs so prescribed; or
- (c) if, at the date of the accident, no regulation was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds 260,000—the number of SDRs so specified; or
- (d) if, at the date of the accident, a regulation prescribing a number of SDRs exceeding 260,000 was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds the number so prescribed—the number of SDRs so specified.

“(2) In this section:

**‘Australian international carrier’** means:

- (a) a carrier designated, nominated or otherwise authorised by Australia under a bilateral arrangement to operate scheduled international air services; or
- (b) a carrier operating a non-scheduled international flight permitted under section 13A of the *Air Navigation Act 1920*;

**‘bilateral arrangement’** has the same meaning as in section 11A of the *Air Navigation Act 1920*.”.

**3. Subsection 26(1):**

Insert:

“ **‘domestic carrier’** means a carrier operating a flight for the carriage of passengers:

- (a) between a place in a State and a place in another State; or
- (b) between a place in a Territory and a place in Australia outside that Territory; or
- (c) between a place in a Territory and another place in that Territory;

other than carriage to which Part 2 or 3 applies;”.

**4. Subsection 31(1):**

Omit “carrier”, substitute “domestic carrier”.

**5. Paragraph 31(1)(a):**

Omit “\$100,000”, substitute “\$500,000”.

**6. Paragraph 31(1)(b):**

Omit “\$100,000”, substitute “\$500,000”.



**SCHEDULE 1—continued**

**7. Paragraph 31(1)(c):**

Omit the paragraph, substitute:

- “(c) if, at the date of the accident, no regulation was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as an amount that exceeds \$500,000—the amount so specified; or
- (d) if, at the date of the accident, a regulation prescribing an amount was in force as mentioned in paragraph (b) but the contract of carriage under which the passenger was carried specified an amount that exceeds that amount as the limit of the carrier’s liability—the amount so specified.”.

**8. After subsection 31(1):**

Insert:

“(1A) Subject to the regulations relating to passenger tickets, the liability under this Part of a carrier to which this Part applies, other than a domestic carrier, in respect of each passenger, by reason of the passenger’s injury or death resulting from an accident, is limited to:

- (a) if neither paragraph (b) nor (c) applies—260,000 SDRs; or
- (b) if, at the date of the accident, a regulation was in force prescribing a number of SDRs that exceeds 260,000 for the purpose of this section and paragraph (c) does not apply—the number of SDRs so prescribed; or
- (c) if, at the date of the accident, no regulation was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds 260,000—the number of SDRs so specified; or
- (d) if, at the date of the accident, a regulation prescribing a number of SDRs exceeding 260,000 was in force under paragraph (b) but the contract of carriage under which the passenger was carried specified the limit of the carrier’s liability as a number of SDRs that exceeds the number so prescribed—the number of SDRs so specified.”.

**PART F**

**AMENDMENTS OF THE FEDERAL AIRPORTS  
CORPORATION ACT 1986**

**1. After subsection 19(2B):**

Insert:

**SCHEDULE 1—continued**

**3. After section 46:**

Insert:

**Interim dividends**

“46A.(1) In this section:

**‘interim dividend’**, in relation to a financial year, means an amount paid on account of the dividend that may become payable under section 46 for the financial year.

“(2) The Board must, before 1 March in each financial year, by notice in writing given to the Minister, recommend that the Corporation pay a specified interim dividend, or not pay any interim dividend, to the Commonwealth for the financial year.

“(3) In making a recommendation, the Board must have regard to:

- (a) the matters specified in paragraphs 39(1)(a), (c), (d), (e) and (f); and
- (b) the extent of the Commonwealth’s equity in the Corporation; and
- (c) such other commercial considerations as the Board considers fit.

“(4) The Minister must, within 45 days after receiving a recommendation, by written notice to the Board, either:

- (a) approve the recommendation; or
- (b) give directions to the Board in relation to the payment of an interim dividend.

“(5) The Minister must, in giving a notice under subsection (4), have regard to:

- (a) the matters specified in paragraphs 39(1)(a), (c), (d), (e), (ea) and (f); and
- (b) the extent of the Commonwealth’s equity in the Corporation; and
- (c) such other commercial considerations the Minister thinks appropriate.

“(6) If an interim dividend is approved or directed under subsection (4), the Corporation must pay the interim dividend to the Commonwealth by 15 June in the financial year.”.

**4. Subsection 58(1):**

Omit “The Minister, after receiving a recommendation from the Board,”, substitute “The Board”.

**SCHEDULE 1—continued**

**PART G**

**AMENDMENTS OF THE MOTOR VEHICLE STANDARDS  
ACT 1989**

**1. Subsection 5(1) (definition of “compliance plate”):**

Omit the definition.

**2. Subsection 5(1) (definition of “imported vehicle”):**

Omit “after the commencement of section 18, or, if that section does not commence before 1 July 1989, on or after that date,”, substitute “on or after 1 July 1989”.

**3. Subsection 5(1) (definition of “road motor vehicle”):**

Omit “but does not include vehicles declared by the Minister in writing not to be road motor vehicles for the purposes of this Act;”.

**4. Subsection 5(1) (definition of “nonstandard”):**

Omit the definition, substitute:

“**‘nonstandard’**, in relation to a road vehicle or a vehicle component, means not complying with the national standards and not taken to comply with the national standards by virtue of an approval given under subsection 10A(2);”.

**5. Subsection 5(1) (definition of “road vehicle”):**

Omit the definition, substitute:

“**‘road vehicle’** means:

- (a) a road motor vehicle; or
- (b) a road trailer; or
- (c) a partly completed road motor vehicle;

but does not include vehicles which the Minister has determined, under section 5B, are not road vehicles;”.

**6. Subsection 5(1) (definition of “standard vehicle”):**

Insert “or which is taken to comply with the national standards by virtue of an approval given under subsection 10A(2),” after “national standards,”.

**7. Subsection 5(1):**

Insert:

“**‘identification plate’** means a plate declaring the status of a road vehicle in relation to the national standards and approved to be placed on vehicles of that type or description under procedures and arrangements provided for in subsection 10(1);

**SCHEDULE 1—continued**

**‘placement’**, in relation to an identification plate, includes the engraving, or other like process, of information that would otherwise be contained on the plate;”.

**8. Subsection 5(2):**

Omit the subsection.

**9. After section 5:**

Insert:

**Meaning of vehicle**

“5A. A reference in this Act to a ‘vehicle’ is to be taken as including a type or class of vehicles, unless otherwise specified.

**Determinations with respect to road vehicles**

“5B.(1) The Minister may determine, in writing, that vehicles of a particular class or description are not road vehicles for the purposes of this Act or of a specified provision of this Act.

“(2) The Minister may declare, in writing, that a vehicle is not a road vehicle for the purposes of this Act or of a specified provision of this Act.

“(3) Determinations under subsection (1) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

“(4) Declarations under subsection (2) are notifiable by publication in the *Gazette*.”.

**10. Section 7:**

Repeal the section, substitute:

**Minister may determine vehicle standards**

“7.(1) The Minister may determine, in writing, vehicle standards for road vehicles or vehicle components.

“(2) Determinations under subsection (1) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

**11. After section 7:**

Insert:

**Incorporation of documents setting out standards**

“7A.(1) In determining vehicle standards, the Minister may incorporate documents that set out standards:

**SCHEDULE 1—continued**

- (a) produced by the Economic Commission for Europe, the International Electrotechnical Commission, the International Organization for Standardization or the Standards Association of Australia or by any other organisation that is determined by the Minister; and
- (b) in force from time to time.

“(2) Determinations under paragraph (1)(a) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

**12. Subsection 9(1):**

Omit “to be observed by manufacturers and importers in”, substitute “and arrangements for”.

**13. Heading to Part 3:**

Omit the heading, substitute:

**“PART 3—CERTIFICATION AND APPROVAL”.**

**14. Section 10:**

Repeal the section, substitute:

**Type identification plates**

“10.(1) The Minister may determine, in writing, from time to time, procedures and arrangements for the placement of plates on road vehicles or vehicle components if approval has been given under subsection 10A(1), (2) or (3) for plates to be placed on the vehicles or vehicle components.

“(2) Without limiting the generality of subsection (1), the Minister may determine, in writing, procedure and arrangements in relation to identification plates, including procedures and arrangements with respect to:

- (a) the categories of identification plates to be utilised; and
- (b) the content, form and function of identification plates; and
- (c) the nature, content, sources and format of evidence to be presented to establish whether, and to what extent, a road vehicle or vehicle component complies with the national standards; and
- (d) the analysis, verification and supplementation of such evidence; and
- (e) the manner in which partly completed road vehicles are to be provided for; and
- (f) the manufacture and supply of identification plates; and
- (g) the placement of identification plates; and

**SCHEDULE 1—continued**

- (h) the retention of records and information relevant to applications for, and the giving of, approvals under this section.

“(3) Determinations under subsection (1) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**Approval for the placement of identification plates**

“10A.(1) If road vehicles or vehicle components of a particular type comply with the national standards, the Minister must give written approval for identification plates to be placed on vehicles or components of that type.

“(2) If:

- (a) road vehicles or vehicle components of a particular type do not comply with the national standards; but
- (b) the Minister is satisfied that such noncompliance is only in minor and inconsequential respects;

the Minister may give written approval for identification plates to be placed on vehicles or components of that type.

“(3) If:

- (a) road vehicles or vehicle components of a particular type do not comply with the national standards; and
- (b) the Minister is satisfied that the noncompliance is not only in minor and inconsequential respects; but
- (c) the Minister is satisfied that, despite the noncompliance, vehicles or components of that type are safe to use if specified conditions are observed;

the Minister may give written approval for identification plates to be placed on vehicles or components of that type.

“(4) Authority for the placement of identification plates may be subject to written conditions determined by the Minister.

**Notification that approval has been given**

“10B.(1) If the Minister:

- (a) gives approval for the placement of identification plates on road vehicles or vehicle components under subsection 10A(1); and
- (b) that approval is given subject to conditions determined under subsection 10A(4);

the Minister must provide, to the person to whom the approval is given, a statement specifying the conditions to be met.

**SCHEDULE 1—continued**

“(2) If the Minister:

- (a) gives approval for the placement of identification plates on road vehicles or vehicle components under subsection 10A(2) or (3); and
- (b) that approval is given subject to conditions determined under subsection 10A(4);

the Minister must provide, to the person to whom the approval is given, a statement specifying:

- (c) the national standard or standards with which the vehicle or the component does not comply; and
- (d) the conditions to be met; and
- (e) the reasons for the imposition of those conditions.

“(3) An approval given under subsection 10A(1), (2) or (3) must specify the subsection under which the approval was given and that the approval is a matter of public record.

“(4) An identification plate placed on a road vehicle or a vehicle component by virtue of an approval given under subsection 10A(3) must specify that:

- (a) the vehicle is the nonstandard vehicle; and
- (b) use of the vehicle may be subject to conditions, including conditions stated on the plate.”.

**15. Section 11:**

- (a) Omit “a compliance” (wherever occurring), substitute “an identification”.
- (b) Omit “compliance plates” (wherever occurring), substitute “identification plates”.

**16. Section 12:**

Repeal the section, substitute:

**Offences in relation to identification plates**

“12. It is an offence for a person:

- (a) knowingly or recklessly to provide false or misleading information in an application for an authority to place an identification plate on a road vehicle or a vehicle component; or
- (b) knowingly or recklessly to manufacture or supply, without authority, a device purporting to be an identification plate; or
- (c) to place a device purporting to be an identification plate on a road vehicle or a vehicle component knowing the device is not such a plate or reckless as to whether it is such a plate or not; or

**SCHEDULE 1—continued**

- (d) knowingly or recklessly to place an identification plate on a road vehicle or a vehicle component in relation to which no authority for the placement of that plate has been given; or
- (e) to place an identification plate on a road vehicle or a vehicle component in circumstances that, to the knowledge of the person, breaches the conditions for the placement of the plate fixed under subsection 10A(4).

Penalty: 120 penalty units.”.

**17. Section 13:**

- (a) Omit “a compliance”, substitute “an identification”.
- (b) Insert “procedures and” before “arrangements”.
- (c) Omit “under the regulations”, substitute “determined under section 10”.

**18. After section 13:**

Insert:

**Vehicles not to be made nonstandard**

“13A.(1) Subject to subsection (3), a person must not knowingly or recklessly modify a standard vehicle in a way that makes it nonstandard.

Penalty: 120 penalty units.

“(2) Subject to subsection (3), a person must not knowingly or recklessly hand over a standard vehicle to a person for modification, whether by that person or otherwise, in a way that makes it nonstandard.

Penalty: 120 penalty units.

“(3) A person may modify a standard vehicle in a way that makes it nonstandard, or hand over a new vehicle for such modification:

- (a) in prescribed circumstances; or
- (b) with the written approval of the Minister.

“(4) An approval given under subsection (3) may be subject to written conditions determined by the Minister.”.

**19. Subsection 14(1):**

Omit “subsection (2)”, substitute “section 14A”.

**20. Paragraph 14(1)(b):**

Omit “a compliance”, substitute “an identification”.

**21. Subsection 14(2):**

Omit the subsection.



**SCHEDULE 1—continued**

**22. After section 14:**

Insert:

**Supply of nonstandard vehicles**

“14A.(1) A person may supply to the market a vehicle to which section 14 applies:

- (a) in prescribed circumstances; or
- (b) with the written approval of the Minister.

“(2) An approval given under subsection (1) may be subject to written conditions determined by the Minister.

**No requirement to comply with certain standards**

“14B.(1) A person may supply a new vehicle to the market even though it does not comply with a local standard.

“(2) In this section:

‘local standard’ means a vehicle standard for new vehicles, other than a national standard, purported to be required by a law of a State or Territory.”.

**23. Paragraph 15(1)(b):**

Omit “a compliance”, substitute “an identification”.

**24. Section 16:**

Repeal the section.

**25. Subsection 17(1):**

Omit “a compliance” (wherever occurring), substitute “an identification”.

**26. Paragraph 17A(2)(a):**

Omit “a compliance”, substitute “an identification”.

**27. Paragraph 18(1)(b):**

Omit “a compliance”, substitute “an identification”.

**28. Subsection 19(1):**

Omit “a compliance”, substitute “an identification”.

**29. Subsection 20(1):**

Omit “a compliance”, substitute “an identification”.

**30. Section 21:**

Repeal the section.

**SCHEDULE 1—continued**

**31. Section 23:**

Omit paragraphs (a) and (b), substitute:

- “(a) the power to determine that vehicles of a particular class or description are not road motor vehicles under subsection 5B(1); and
- (b) the power to determine national standards under section 7; and
- (c) the power to determine the organisations whose documents may be incorporated under section 7A; and
- (d) procedures and arrangements for determining whether road vehicles or vehicle components comply with this Act under section 9; and
- (e) the power to determine procedures and arrangements for the placement of identification plates on road vehicles under section 10; and
- (f) the power under section 11 to cancel an authority.”.

**32. Paragraph 24(1)(a):**

- (a) Omit “a compliance” (wherever occurring), substitute “an identification”.
- (b) Omit “compliance plates”, substitute “identification plates”.

**33. Subsection 27(1):**

Omit “and Orders under section 7”, substitute “, or determinations under section 7 or 10”.

**34. Subsection 28(1):**

Omit “or Orders under section 7”, substitute “, or determinations under section 7 or 10”.

**35. Subsection 29(1):**

Omit “or Orders under section 7 have”, substitute “, or determinations under section 7 or 10 have,”.

**36. Section 31:**

Omit “shall”, substitute “must”.

**37. Subsection 34(3):**

Omit “shall, unless the contrary intention is proved,”, insert “, unless the contrary intention is proved, is to”.

**38. Paragraph 37(a):**

Omit “a compliance”, substitute “an identification”.

**39. Paragraph 37(b):**

Insert “or a determination under this Act” after “regulations”.

**SCHEDULE 1—continued**

**40. Paragraph 39(1)(g):**

- (a) Omit “a compliance” (wherever occurring), substitute “an identification”.
- (b) Insert “or a determination” after “the regulations”.

**41. Paragraph 42(c):**

Omit “\$1,000”, substitute “10 penalty units”.

**PART H**

**AMENDMENTS OF THE NAVIGATION ACT 1912**

**1. Subsection 83(2):**

Omit “of”, substitute “over”.

**2. After subsection 132(6):**

Insert:

“(6A) A seaman is not entitled to wages under this section by reason of an illness, hurt or injury, occurring after the day on which this subsection commences, if the seaman is entitled to compensation under Division 3 of Part 2 of the *Seafarers Rehabilitation and Compensation Act 1992* in respect of that illness, hurt or injury.

“(6B) A seaman can be taken, for the purposes of subsection (6A), to be entitled to compensation under Division 3 of Part 2 of the *Seafarers Rehabilitation and Compensation Act 1992* even though the seaman:

- (a) has failed to give written notice of the illness, hurt or injury under section 62 of that Act; or
- (b) has failed to make a claim for compensation under section 63 of that Act.

“(6C) If:

- (a) a seaman is left on shore by reason of illness, hurt or injury; and
- (b) the owner:
  - (i) considers the seaman is entitled to compensation under the *Seafarers Rehabilitation and Compensation Act 1992*; and
  - (ii) because of the operation of subsection (6A), intends not to pay wages in respect of any period during which the seaman is left on shore;

the owner must advise the seaman, by notice in writing given to the seaman, of that intention.

**SCHEDULE 1—continued**

“(6D) A notice given under subsection (6C) is not to be taken as a determination of liability under section 73 of the *Seafarers Rehabilitation and Compensation Act 1992*.”.

**3. After section 172:**

Insert:

**Report of matters recorded in official log-book**

“172A.(1) The master of a ship who is required by section 171 to keep an official log-book must, as soon as practicable after making an entry in relation to an occurrence under the code of conduct referred to in subsection 46(4A), report the recording of that occurrence to the Authority in accordance with regulations made under subsection (2).

“(2) The regulations may provide for the manner and time of reporting the making of an entry in the official log-book in relation to an occurrence referred to in subsection (1).”.

Penalty: 10 penalty units.

**4. Subsection 187A(1) (definition of “the Load Line Convention”):**

Omit all the words after “Annex II”, substitute:

“is set forth in Schedule 4):

- (a) as affected, after the date on which the Protocol of 1988 relating to the Load Line Convention enters into force for Australia, by that Protocol; and
- (b) as also affected by any amendment, other than an amendment not accepted by Australia, made under section 29 of the Convention”.

**5. Subsection 187A(1) (definition of “the Safety Convention”):**

Omit all the words after “is set forth”, substitute:

“in Schedule 1):

- (a) as affected, after the respective dates on which:
  - (i) the Protocol of 1978 relating to the Safety Convention; and
  - (ii) the Protocol of 1988 relating to the Safety Convention;enter into force for Australia—by each of those Protocols; and
- (b) as also affected by any amendment, other than an amendment objected to by Australia, made under Article VIII of that Convention”.

**6. Subsection 187A(1) (definition of “cargo ship safety radiotelegraphy certificate”):**

Omit the definition.

**SCHEDULE 1—continued**

**7. Subsection 187A(1) (definition of “cargo ship safety radiotelephony certificate”):**

Omit the definition.

**8. Subsection 187A(1) (definition of “the Protocol of 1978 relating to the Safety Convention”):**

Omit the definition.

**9. Subsection 187A(1):**

Insert:

“‘cargo ship safety certificate’ means a certificate issued under section 206GA;

‘cargo ship safety radio certificate’ means a cargo ship safety radio certificate issued under section 206G;”.

**10. Section 187E:**

Omit “, or the Protocol of 1978 relating to the Safety Convention,”.

**11. After section 190AA:**

Insert:

“190AB.(1) The Authority may publish, in the manner prescribed, such information derived about a ship:

- (a) during an inspection or survey of that ship under section 190AA; or
- (b) during an inspection or survey of that ship conducted otherwise than under this Act; or
- (c) otherwise than by an inspection or survey;

as is prescribed.

“(2) The regulations may make provision for:

- (a) the manner in which information derived:
  - (i) during an inspection or survey; or
  - (ii) otherwise than by inspection or survey;will be published; and

- (b) the nature of the information that will be published; and

- (c) the time at which the publication of information will occur.”.

**12. Section 196:**

Repeal the section, substitute:

**SCHEDULE 1—continued**

**Certificates to be made available for examination**

“196. The master of a ship in respect of which a certificate of survey, a passenger certificate or a certificate of equipment has been issued must, while the certificate remains in force, ensure that a copy of the certificate is available at all reasonable times for examination on request by any person on board the ship.

Penalty: 5 penalty units.”.

**13. Subsection 206C(2):**

Omit “Subsection 6(3)”, substitute “Section 25C of the *Acts Interpretation Act 1901*”.

**14. Section 206F:**

Omit “radiotelegraphy or radiotelephony”, substitute “radio”.

**15. Section 206G:**

(a) Omit “radiotelegraphy or radiotelephony”, substitute “radio”.

(b) Omit “a cargo ship safety radiotelegraphy or a cargo ship safety radiotelephony certificate, as the case requires”, substitute “a cargo ship safety radio certificate”.

**16. After section 206G:**

Insert:

**Cargo steamships—safety certificates**

“206GA. If, in respect of a steamship registered in Australia, the Authority is satisfied that it could issue:

(a) a cargo ship safety construction certificate under subsection 206E(1); and

(b) a cargo ship safety equipment certificate under section 206F; and

(c) a cargo ship safety radio certificate under section 206G;

it may issue, in the prescribed form, a cargo ship safety certificate in respect of the ship.”.

**17. Subsection 206L(1):**

Insert “or to authorise the issue of, or to endorse or to authorise the endorsement of” after “issue” (first occurring).

**18. Paragraph 206L(1)(a):**

Insert “or authorise the issue of, or endorse or authorise the endorsement of” after “issue”.

**19. Subsection 206L(2):**

Insert “or endorsed” after “issued” (wherever occurring).

**SCHEDULE 1—continued**

**20. Subsection 206M(1):**

Insert “or authorise the issue of, or endorse or authorise the endorsement of,” after “issue” (wherever occurring).

**21. Subsection 206M(2):**

Insert “or endorsed” after “issued” (first occurring).

**22. Paragraph 206M(2)(a):**

Insert “or endorsed” after “issued”.

**23. Paragraph 206M(2)(b):**

(a) Insert “or endorsed” after “issued”.

(b) Insert “or its endorsement” after “issue”.

**24. Section 206N:**

Repeal the section, substitute:

**Duration of certificates**

“206N.(1) Subject to this Act, a passenger ship safety certificate, a passenger ship short voyage safety certificate, a cargo ship safety construction certificate, a cargo ship safety equipment certificate, a cargo ship safety radio certificate, a cargo ship safety certificate, an exemption certificate, a nuclear passenger ship safety certificate or a nuclear cargo ship safety certificate remains in force for the period specified in the certificate.

“(2) The period specified in a certificate under subsection (1) must not exceed such period as is prescribed for that kind of certificate.”.

**25. Section 206P:**

Repeal the section, substitute:

**Extension of certificates**

“206P. The regulations may provide for the extension of certificates in a manner and for the duration set out in Regulation 14 of Chapter 1 of the Safety Convention.”.

**26. Section 206Q:**

Repeal the section, substitute:

**Certificates to be made available for examination**

“206Q. The master of a ship in respect of which a certificate has been issued under this Division must, while the certificate remains in force, ensure that a copy of the certificate is available at all reasonable times for examination on request by any person on board the ship.

Penalty: 5 penalty units.”.

**SCHEDULE 1—continued**

- 27. Subparagraph 206T(1)(b)(iii):**  
Omit the subparagraph, substitute:  
“(iii) a cargo ship safety radio certificate;”.
- 28. Subsection 218(1) (definition of “valid load line certificate”):**  
Omit “(1966)”.
- 29. Paragraph 222(a):**  
Omit “(1966)”.
- 30. Subsection 224(1):**  
Omit the subsection, substitute:  
“(1) Subject to this Act, an international load line certificate, an international load line exemption certificate or an Australian load line certificate remains in force for the period specified in the certificate.  
“(1A) The period specified in a certificate under subsection (1) must not exceed such period as is prescribed for that kind of certificate.”.
- 31. Subsection 225(1):**  
Omit the subsection.
- 32. Subsection 225(2):**  
Omit the penalty, substitute:  
“Penalty: 10 penalty units.”.
- 33. Paragraph 226(1)(a):**  
Omit “(1966)”.
- 34. Subsection 226(1):**  
(a) Insert “or authorise the issue of, or to endorse or authorise the endorsement of,” after “issue” (first occurring).  
(b) Insert “or authorise the issue of, or to endorse or authorise the endorsement of,” after “issue” (second occurring).
- 35. Subsection 226(2):**  
Insert “or endorsed” after “issued” (wherever occurring).
- 36. Subsection 227(1):**  
Omit “(1966)”.
- 37. Section 294 (definition of “salvage”):**  
Omit the definition.



**SCHEDULE 1—continued**

**38. Section 294:**

Insert:

“ ‘**common understanding concerning Articles 13 and 14 of the Salvage Convention**’ means the common understanding:

(a) that is referred to in section 315; and

(b) the terms of which are set out in Part B of Schedule 9;

‘**damage to the environment**’ means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents;

‘**natural resources**’ means the mineral and non-living resources of the seabed and its subsoil;

‘**Organization**’ means the International Maritime Organization;

‘**payment**’ means any reward, remuneration or compensation due under Division 3;

‘**property**’ means any property not permanently and intentionally attached to the shoreline and includes freight at risk;

‘**Salvage Convention**’ means the International Convention on Salvage, 1989, as set out in Part A of Schedule 9 to this Act;

‘**salvage operation**’ means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever;

‘**Secretary-General**’ means the Secretary-General of the Organization;

‘**vessel**’ means any ship or craft, or any structure capable of navigation.”.

**39. Section 294:**

Add:

“(2) A reference in this Part to Division 3 includes a reference to the provision having the force of law under section 315.”.

**40. Subsection 295A(1):**

Omit “Divisions 3 and 4”, substitute “Division 3”.

**41. Subsection 295B(1):**

Omit “Divisions 3 and 4”, substitute “Division 3”.

**42. After section 314:**

Insert in Division 2 of Part VII:

**Removal of wrecks on or near coast**

“314A.(1) If a ship or part of a ship is wrecked, stranded, sunk or abandoned on or near the coast of Australia, the Authority has, in regard thereto, the following powers:

**SCHEDULE 1—continued**

- (a) to require the owner thereof, by notice in writing, to remove the wreck, or a specified part of the wreck, within a time specified in the notice, or give security for such removal to its satisfaction;
- (b) in the event of the owner not complying with such notice, to remove or to destroy the wreck, or the part of the wreck, as the case may be, in any manner it sees fit;
- (c) to sell any wreck, or a part of any wreck, recovered under its orders, and out of the proceeds of the sale:
  - (i) to retain a sum to cover the expenses incurred in the recovery and sale of the wreck or the part of the wreck; and
  - (ii) to pay the surplus (if any) to the owner;
- (d) to recover from the owner any expenses incurred by it in connection with such removal or destruction.

“(2) For the purposes of this section:

‘owner’ means the owner immediately prior to the time of the loss or abandonment of the ship or the part of the ship.

“(3) The provisions of subsection (1) have effect in relation to a wreck that is a historic wreck despite anything contained in the *Historic Shipwrecks Act 1976* but, in respect of a wreck that is a historic wreck, the Authority must not exercise any of the powers referred to in that subsection unless in its opinion it is necessary to do so for the purposes of:

- (a) saving human life; or
- (b) securing the safe navigation of ships; or
- (c) dealing with an emergency involving a serious threat to the environment.

“(4) The Authority shall not exercise any of the powers referred to in subsection (1) in relation to a wreck to which subsection 295B(1) applies unless in its opinion it is necessary to do so for the purpose of:

- (a) saving human life; or
- (b) securing the safe navigation of ships; or
- (c) dealing with an emergency involving a serious threat to the environment.

“(5) Section 2 does not have effect in relation to this section.”.

**43. Sections 315 and 317:**

Repeal the sections, substitute:

**Certain provisions of Salvage Convention to have force of law**

“315. Articles 6 to 8, 12 to 19, 21 to 22, 26 and 30 of the Salvage Convention and the common understanding concerning Articles 13 and 14 of the Salvage Convention have the force of law in Australia.

**SCHEDULE 1—continued**

**Application of this Division**

“316.(1) Subject to subsections (2) and (3), this Division applies whenever judicial or arbitral proceedings relating to the provision of salvage operations are brought in Australia.

“(2) The Division does not apply to:

- (a) off-shore industry fixed structures; or
- (b) off-shore industry mobile units;

that are on location engaged in the exploration for, or the exploitation or production, of natural resources.

“(3) This Division does not apply to any salvage operation:

- (a) that takes place in inland waters and that involves vessels all of which are of inland navigation; or
- (b) that takes place in inland waters and does not involve a vessel; or
- (c) to the extent that it involves property:
  - (i) that is maritime cultural property of prehistoric, archaeological or historic interest; and
  - (ii) that is situated on the seabed.

**Application of section 2 to this Division**

“317. Unless otherwise specified, section 2 does not apply to this Division.”.

**44. Subsection 317A(2):**

- (a) Omit “a fine not exceeding \$20,000 or”.
- (b) Omit “or both”.

**45. Subsection 317A(3):**

Omit “salvage”, substitute “make a claim in respect of a salvage operation”.

**46. Division 4:**

Repeal the Division.

**47. Division 6:**

Repeal the Division.

**48. Heading to Division 7:**

Omit the heading.

**49. Section 329A:**

Repeal the section.

**SCHEDULE 1—continued**

**50. Subsection 329B(1):**

- (a) Omit “Divisions 2 and 6, and sections 321, 322, 323 and 324”, substitute “Division 2”.
- (b) Omit “services rendered”, substitute “operations conducted”.
- (c) Omit “in saving” (wherever occurring), substitute “to save”.
- (d) Omit “assisting”, substitute “to assist”.

**51. Section 329B:**

Add:

“(3) In this section:

**‘article in the course of post’** means an article that is being carried by or through the Australian Postal Corporation, and includes an article that has been collected or received by the Australian Postal Corporation for carriage by post, but has not been delivered by the Australian Postal Corporation.”.

**52. Subsection 329C(1):**

- (a) Omit “Where salvage services are rendered”, substitute “If salvage operations are conducted”.
- (b) Omit “salvage”, substitute “payment”.
- (c) Omit “services” (second occurring), substitute “operations”.

**53. Subsection 329C(2):**

- (a) Omit “services” (wherever occurring), substitute “operations”.
- (b) Omit “rendered”, substitute “conducted”.

**54. Subsection 329C(3):**

- (a) Omit “services rendered” (wherever occurring), substitute “operations conducted”.
- (b) Omit “services so rendered”, substitute “operations so conducted”.
- (c) Omit “services may”, substitute “operations may”.

**55. Before section 386:**

Insert in Division 2 of Part X:

**Definitions**

“385. In this Division, unless the contrary intention appears:

**‘approved laboratory’** means a laboratory approved by the Authority under paragraph 386J(1)(d) to conduct tests to determine a person’s blood alcohol content under subsection 386B(3);

**‘approved operator’** means an operator approved by the Authority under paragraph 386J(1)(b) to take breath samples under paragraph 386B(3)(a) or 386C(1)(d);

**SCHEDULE 1—continued**

**‘approved person’** means a person approved by the Authority under paragraph 386J(1)(c) to receive declarations under paragraph 386G(1)(b); **‘authorised person’** means a person or body authorised by the Authority for the purposes of sections 386C and 386F;”.

**56. After section 386A:**

Insert:

**Unacceptable blood alcohol content**

“386B.(1) If a master or seaman has, while on board a ship, a blood alcohol content that equals or exceeds the specified limit, that person is guilty of an offence against this section.

Penalty: Imprisonment for 6 months.

“(2) The specified limit of blood alcohol content is:

- (a) in the case of a master or of a seaman while on duty—.04 grams of alcohol per 100 millilitres of blood; or
- (b) in the case of a master or seaman, on board the ship but not on duty—.08 grams of alcohol per 100 millilitres of blood.

“(3) The blood alcohol content of a person’s blood may be determined:

- (a) by a test of the person’s breath by an approved operator using a breath analysis device in a manner prescribed; or
- (b) by an examination of the person’s blood or urine by an approved laboratory.

**Master or seaman may be required to undergo examination or to provide samples**

“386C.(1) If an authorised person has reasonable cause to believe:

- (a) that the capacity of a master or seaman to undertake the duties of his or her position is impaired because of alcohol or other drugs; or
- (b) that the blood alcohol content of the blood of a master or seaman exceeds the specified limit;

the authorised person may, by notice in writing given to the master or seaman, require the master or seaman to do all or any of the following:

- (c) to undergo a physical examination by a medical practitioner;
- (d) to provide a breath sample to, or to permit the taking of such a sample by an approved operator of a breath analysis instrument;
- (e) to provide a sample of urine to, or to permit the taking of a sample of blood or urine by, a medical practitioner.

**SCHEDULE 1—continued**

“(2) A notice under subsection (1) must set out:

- (a) the time at which the requirement was made; and
- (b) the name of the person who made the requirement; and
- (c) the place at which, and time within which, the master or seaman to whom the notice is given must present himself or herself for the purpose of undergoing the examination, or for providing or permitting the taking of the sample, to which the notice relates.

**Refusal to provide sample of breath for analysis**

“386D. A person who has, in accordance with the requirement of this Act, been required to provide a sample of breath for analysis is guilty of an offence if:

- (a) he or she refuses to provide a sample of breath for analysis; or
- (b) he or she refuses to provide a sample of breath in accordance with the reasonable directions of the operator of a breath analysis machine.

Penalty: Imprisonment for 6 months.

**Refusal to submit to medical examination**

“386E.(1) A person who is required under this Act to undertake a medical examination is guilty of an offence if:

- (a) he or she fails or refuses to submit to the medical examination; or
- (b) he or she fails or refuses, when required under this Act to do so, to give a urine sample to the medical practitioner conducting the examination for analysis by an approved laboratory or to permit a blood or urine sample to be taken by the practitioner for that purpose.

Penalty: Imprisonment for 6 months.

“(2) A person who is required under this Act to give a urine sample to a medical practitioner for analysis, or to permit a medical practitioner to take a blood or urine sample for that purpose, is guilty of an offence if he or she refuses or fails so to give the sample, or to permit it to be taken.

Penalty: Imprisonment for 6 months.

“(3) It is a defence to a prosecution for an offence against subsection (1) or (2) if the person establishes that the failure or refusal was based on religious or other conscientious grounds or on medical grounds.

**Consumption of alcohol before undergoing examination etc.**

“386F.(1) If an authorised person requires a master or seaman to undergo a medical examination or to give or permit the taking of, a sample of breath, blood or urine for analysis, the person must not, before undergoing

**SCHEDULE 1—continued**

that examination or giving or permitting the taking of that sample of breath, blood or urine, consume any alcohol or take any other drug (whether medicinal or otherwise).

Penalty: Imprisonment for 6 months.

“(2) It is a defence to a prosecution for an offence against subsection (1) if the person establishes that the taking of the drug:

- (a) was based on a reasonably held belief that failure to take the drug could endanger life or health; or
- (b) was required by a prescription issued by a medical practitioner.

**Medical drugs**

“386G.(1) A person who has taken, or who proposes to take, a drug for medical purposes must not come on duty or remain on duty after taking that drug unless:

- (a) the person has taken reasonable steps to satisfy himself or herself that the drug will not affect, or has ceased to affect, the person’s capacity to perform the duties of his or her position; or
- (b) the person has given a declaration to an approved person setting out:
  - (i) the circumstances in which the drug was taken, or will be taken; and
  - (ii) the nature and quantity of the drug involved; and
  - (iii) the time or times at which the drug was taken or will be taken.

Penalty: Imprisonment for 6 months.

“(2) If the person referred to in subsection (1):

- (a) is a seaman other than a master—the person must give the declaration under subsection (1) in writing to the master of the vessel on which the person is performing his or her duties; and
- (b) is a master—the person may give the declaration either in writing or by radio message or by facsimile or telephone to his or her employers.

“(3) A declaration made under subsection (1) must not be disclosed to or by a third person except for the purposes of seeking advice concerning the capacity of the person who gave the declaration to carry out the duties of his or her position.

Penalty: Imprisonment for 12 months.

“(4) If a person has given a declaration to another person under subsection (1), that other person must not, without reasonable excuse, allow the person who gave the declaration to come on duty or to remain on duty

**SCHEDULE 1—continued**

if the person to whom the declaration was made knows, or ought reasonably to have known, that the capacity of the person giving the declaration to carry out the duties of his or her position would be impaired by the drug concerned.

Penalty: Imprisonment for 12 months.

**Permitting or requiring performance of duties by impaired person**

“386H.(1) If a person:

- (a) permits or requires another person to undertake or to continue duty; and
- (b) knows or ought reasonably to know the other person’s capacity to perform those duties is impaired by the influence of alcohol or any other drug;

the first-mentioned person is guilty of an offence.

Penalty: Imprisonment for 6 months.

“(2) It is a defence to a prosecution for an offence against subsection (1) if the person establishes that the permission was given or the requirement made on the grounds of necessity.

**Regulations**

“386J.(1) The regulations may make provision for the Authority to approve:

- (a) instruments designed and constructed to ascertain the concentration of alcohol present in a sample of a person’s breath and capable of recording that concentration in grams per 100 millilitres of blood; and
- (b) operators to carry out breath analysis using a breath analysis device; and
- (c) persons to whom declarations under section 386G must be given; and
- (d) laboratories to carry out analysis of urine and blood samples obtained by medical practitioners.

“(2) The regulations may make provision for the procedure to be undertaken by an approved operator in obtaining a sample of a person’s breath.”.

**57. Subsection 396(1):**

Omit “were rendered”, substitute “rendered were terminated”.

**58. After Schedule 8:**

Add the Schedule set out in Schedule 4 to this Act.



**SCHEDULE 1—continued**

**PART J**

**AMENDMENTS OF THE PROTECTION OF THE SEA  
LEGISLATION AMENDMENT ACT 1986**

- 1. Subsection 2(5):**  
Omit “1984”, substitute “1992”.
- 2. Section 36 (definition of “the Convention”):**  
Omit “1984”, substitute “1992”.
- 3. Section 36 (definition of “the 1984 Protocol”):**  
Omit the definition, substitute:  
“**‘the 1992 Protocol’** means the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (a copy of the English text of which is set out in Schedule 2).”.
- 4. Schedule 8:**  
Repeal the Schedule, substitute the Schedule set out in Schedule 2 to this Act.

**PART K**

**AMENDMENTS OF THE SHIPS (CAPITAL GRANTS) ACT 1987**

- 1. Section 3 (definition of “eligible ship”):**
  - (a) Omit “21” (wherever occurring), substitute “18”.
  - (b) Omit “23” from paragraph (b), substitute “18”.
- 2. Paragraph 7(1)(a):**  
Omit “21”, substitute “18”.
- 3. Paragraph 7(1)(b):**  
Omit “23”, substitute “18”.
- 4. Subsection 17(4):**  
Omit the subsection, substitute:  
“(4) If the Secretary is satisfied (whether as a result of an examination of an acknowledgment or otherwise), that there has been an overpayment of a claim by more than \$100, the Secretary must cause a written demand for repayment of an amount of the overpayment to be served on the claimant.  
“(4A) The written demand must, if there has not been an acknowledgment of the overpayment, set out the reason why the Secretary is of the view that there has been an overpayment.

**SCHEDULE 1—continued**

“(4B) The claimant becomes, on receipt of a written demand under subsection (4), liable to repay the amount demanded to the Commonwealth.”.

**5. Subsection 21(1):**

- (a) Omit “that is one of the 5 grant years immediately after the grant year in which the grant was paid”, substitute “or a part of a grant year ending not later than 5 years after the payment of the grant”.
- (b) Omit “in the April immediately after the first-mentioned grant year”, substitute “in April following each such grant year or part of a grant year”.

**6. After subsection 21(4):**

Insert:

“(5) In this section:

**‘part of a grant year’ means:**

- (a) the period beginning with the making of the grant and ending with the start of the first complete grant year after the making of the grant; and
  - (b) the period beginning immediately after the end of the last complete grant year to end before the fifth anniversary of the making of the grant and ending on that fifth anniversary.”.
-

**SCHEDULE 2**

Section 3 and item 4 of  
Part K of Schedule 1

**SCHEDULE SUBSTITUTED FOR SCHEDULE 8 TO THE  
PROTECTION OF THE SEA LEGISLATION AMENDMENT  
ACT 1986**

**“SCHEDULE 8**

Section 40

**SCHEDULE SUBSTITUTED FOR SCHEDULE 2 TO THE  
PROTECTION OF THE SEA (CIVIL LIABILITY) ACT 1981**

**‘SCHEDULE 2**

Section 3

**PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL  
CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION  
DAMAGE, 1969**

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention on Civil Liability for Oil Pollution Damage, 1969, and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNIZING that special provisions are necessary in connection with the introduction of corresponding amendments to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,

HAVE AGREED as follows:

Article 1

The Convention which the provisions of this Protocol amend is the International Convention on Civil Liability for Oil Pollution Damage, 1969, hereinafter referred to as the “1969 Liability Convention”. For States Parties to the Protocol of 1976 to the 1969 Liability Convention, such reference shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article 2

Article I of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

1. “Ship” means any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such

**SCHEDULE 2—continued**

carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard.

2. Paragraph 5 is replaced by the following text:
  5. “Oil” means any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship.
3. Paragraph 6 is replaced by the following text:
  6. “Pollution damage” means:
    - (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;
    - (b) the costs of preventive measures and further loss or damage caused by preventive measures.
4. Paragraph 8 is replaced by the following text:
  8. “Incident” means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage.
5. Paragraph 9 is replaced by the following text:
  9. “Organization” means the International Maritime Organization.
6. After paragraph 9 a new paragraph is inserted reading as follows:
  10. “1969 Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage, 1969. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article 3

Article II of the 1969 Liability Convention is replaced by the following text:

This Convention shall apply exclusively:

- (a) to pollution damage caused:
  - (i) in the territory, including the territorial sea, of a Contracting State, and
  - (ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baseline from which the breadth of its territorial sea is measured;
- (b) to preventive measures, wherever taken, to prevent or minimize such damage.

Article 4

Article III of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

**SCHEDULE 2—continued**

1. Except as provided in paragraphs 2 and 3 of this Article, the owner of a ship at the time of an incident, or, where the incident consists of a series of occurrences, at the time of the first such occurrence, shall be liable for any pollution damage caused by the ship as a result of the incident.
2. Paragraph 4 is replaced by the following text:
  4. No claim for compensation for pollution damage may be made against the owner otherwise than in accordance with this Convention. Subject to paragraph 5 of this Article, no claim for compensation for pollution damage under this Convention or otherwise may be made against:
    - (a) the servants or agents of the owner or the members of the crew;
    - (b) the pilot or any other person who, without being a member of the crew, performs services for the ship;
    - (c) any character (howsoever described, including a bareboat charterer), manager or operator of the ship;
    - (d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;
    - (e) any person taking preventive measures;
    - (f) all servants or agents of persons mentioned in subparagraphs (c), (d) and (e);unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

Article 5

Article IV of the 1969 Liability Convention is replaced by the following text:  
When an incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under Article III, shall be jointly and severally liable for all such damage which is not reasonably separable.

Article 6

Article V of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:
  1. The owner of a ship shall be entitled to limit his liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:
    - (a) 3 million units of account for a ship not exceeding 5,000 units of tonnage;
    - (b) for a ship with a tonnage in excess thereof, for each additional unit of tonnage, 420 units of account in addition to the amount mentioned in subparagraph (a);provided, however, that this aggregate amount shall not in any event exceed 59.7 million units of account.
2. Paragraph 2 is replaced by the following text:
  2. The owner shall not be entitled to limit his liability under this Convention if it is proved that the pollution damage resulted from his personal act or omission,

**SCHEDULE 2—continued**

- committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
3. Paragraph 3 is replaced by the following text:
    3. For the purpose of availing himself of the benefit of limitation provided for in paragraph 1 of this Article the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of any one of the Contracting States in which action is brought under Article IX or, if no action is brought, with any Court or other competent authority in any one of the Contracting States in which an action can be brought under Article IX. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the Contracting State where the fund is constituted, and considered to be adequate by the Court or other competent authority.
  4. Paragraph 9 is replaced by the following text:
    - 9(a). The “unit of account” referred to in paragraph 1 of this Article is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is a member of the International Monetary Fund shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is not a member of the International Monetary Fund shall be calculated in a manner determined by that State.
    - 9(b). Nevertheless, a Contracting State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.
    - 9(c). The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the Contracting State as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first three sentences of paragraph 9(a). Contracting States shall communicate to the depositary the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.
  5. Paragraph 10 is replaced by the following text:

**SCHEDULE 2—continued**

10. For the purpose of this Article the ship's tonnage shall be 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.

6. The second sentence of paragraph 11 is replaced by the following text:  
Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limit his liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

Article 7

Article VII of the 1969 Liability Convention is amended as follows:

1. The first two sentences of paragraph 2 are replaced by the following text:  
A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a Contracting State has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a Contracting State such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a Contracting State it may be issued or certified by the appropriate authority of any Contracting State.
2. Paragraph 4 is replaced by the following text:
  4. The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a Contracting State, with the authorities of the State issuing or certifying the certificate.
3. The first sentence of paragraph 7 is replaced by the following text:  
Certificates issued or certified under the authority of a Contracting State in accordance with paragraph 2 shall be accepted by other Contracting States for the purposes of this Convention and shall be regarded by other Contracting States as having the same force as certificates issued or certified by them even if issued or certified in respect of a ship not registered in a Contracting State.
4. In the second sentence of paragraph 7 the words "with the State of a ship's registry" are replaced by the words "with the issuing or certifying State".
5. The second sentence of paragraph 8 is replaced by the following text:  
In such case the defendant may, even if the owner is not entitled to limit his liability according to Article V, paragraph 2, avail himself of the limits of liability prescribed in Article V, paragraph 1.

Article 8

Article IX of the 1969 Liability Convention is amended as follows:

Paragraph 1 is replaced by the following text:

1. Where an incident has caused pollution damage in the territory, including the territorial sea or an area referred to in Article II, of one or more Contracting States

**SCHEDULE 2—continued**

or preventive measures have been taken to prevent or minimize pollution damage in such territory including the territorial sea or area, actions for compensation may only be brought in the Courts of any such Contracting State or States. Reasonable notice of any such action shall be given to the defendant.

Article 9

After Article XII of the 1969 Liability Convention two new Articles are inserted as follows:

Article XII bis

Transitional provisions

The following transitional provisions shall apply in the case of a State which at the time of an incident is a Party both to this Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of this Convention, liability under this Convention shall be deemed to be discharged if, and to the extent that, it also arises under the 1969 Liability Convention;
- (b) where an incident has caused pollution damage within the scope of this Convention, and the State is a Party both to this Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of subparagraph (a) of this Article shall arise under this Convention only to the extent that pollution damage remains uncompensated after application of the said 1971 Convention;
- (c) in the application of Article III, paragraph 4, of this Convention the expression “this Compensation” shall be interpreted as referring to this Convention or the 1969 Liability Convention, as appropriate;
- (d) in the application of Article V, paragraph 3, of this Convention the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with subparagraph (a) of this Article.

Article XII ter

Final clauses

The final clauses of this Convention shall be Articles 12 to 18 of the Protocol of 1992 to amend the 1969 Liability Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.

Article 10

The model of a certificate annexed to the 1969 Liability Convention is replaced by the model annexed to this Protocol.

Article 11

1. The 1969 Liability Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.



**SCHEDULE 2—continued**

2. Articles I to XII ter, including the model certificate, of the 1969 Liability Convention as amended by this Protocol shall be known as the International Convention of Civil Liability for Oil Pollution Damage, 1992 (1992 Liability Convention).

**FINAL CLAUSES**

**Article 12**

**Signature, ratification, acceptance, approval and accession**

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by all States.
2. Subject to paragraph 4, any State may become a Party to this Protocol by:
  - (a) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
  - (b) accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization.
4. Any Contracting State to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the 1971 Fund Convention, may ratify, accept, approve or accede to this Protocol only if it ratifies, accepts, approves or accedes to the Protocol of 1992 to amend that Convention at the same time, unless it denounces the 1971 Fund Convention to take effect on the date when this Protocol enters into force for that State.
5. A State which is a Party to this Protocol but not a Party to the 1969 Liability Convention shall be bound by the provisions of the 1969 Liability Convention as amended by this Protocol in relation to other State Parties hereto, but shall not be bound by the provisions of the 1969 Liability Convention in relation to States Parties thereto.
6. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1969 Liability Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

**Article 13**

**Entry into force**

1. This Protocol shall enter into force twelve months following the date on which ten States including four States each with not less than one million units of gross tanker tonnage have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization.
2. However, any Contracting State to the 1971 Fund Convention may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol, declare that such instrument shall be deemed not to be effective for the purposes of this Article until the end of the six-month period in Article 31 of the Protocol of 1992 to amend the 1971 Fund Convention. A State which is not a

**SCHEDULE 2—continued**

Contracting State to the 1971 Fund Convention but which deposits an instrument of ratification, acceptance, approval or accession in respect of the Protocol of 1992 to amend the 1971 Fund Convention may also make a declaration in accordance with this paragraph at the same time.

3. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to the Secretary-General of the Organization. Any such withdrawal shall take effect on the date the notification is received, provided that such State shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.

4. For any State which ratifies, accepts, approves or accedes to it after the conditions in paragraph 1 for entry into force have been met, this Protocol shall enter into force twelve months following the date of deposit by such State of the appropriate instrument.

Article 14

Revision and amendment

1. A Conference for the purposes of revising or amending the 1992 Liability Convention may be convened by the Organization.

2. The Organization shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Liability Convention at the request of not less than one third of the Contracting States.

Article 15

Amendments of limitation amounts

1. Upon the request of at least one quarter of the Contracting States any proposal to amend the limits of liability laid down in Article V, paragraph 1, of the 1969 Liability Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.

2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.

3. All Contracting States to the 1969 Liability Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.

5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment

**SCHEDULE 2—continued**

on the cost of insurance. It shall also take into account the relationship between the limits in Article V, paragraph 1, of the 1969 Liability Convention as amended by this Protocol and those in Article 4, paragraph 4, of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992.

6(a). No amendment of the limits of liability under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.

(b). No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol increased by 6 per cent per year calculated on a compound basis from 15 January 1993.

(c). No limit may be increased so as to exceed an amount which corresponds to the limits laid down in the 1969 Liability Convention as amended by this Protocol multiplied by 3.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organization that they do not accept the amendment in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.

9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 16, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted by the Legal Committee but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article 16

Denunciation

1. This Protocol may be denounced by any Party at any time after the date which it enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organization.

**SCHEDULE 2—continued**

3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.

4. As between the Parties to this Protocol, denunciation by any of them of the 1969 Liability Convention in accordance with Article XVI thereof shall not be construed in any way as a denunciation of the 1969 Liability Convention as amended by this Protocol.

5. Denunciation of the Protocol of 1992 to amend the 1971 Fund Convention by a State which remains a Party to the 1971 Fund Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1971 Fund Convention takes effect according to Article 34 of that Protocol.

Article 17

Depositary

1. This Protocol and any amendments accepted under Article 15 shall be deposited with the Secretary-General of the Organization.

2. The Secretary-General of the Organization shall:

- (a) inform all States which have signed or acceded to this Protocol of:
  - (i) each new signature or deposit of an instrument together with the date thereof;
  - (ii) each declaration and notification under Article 13 and each declaration and communication under Article V, paragraph 9, of the 1992 Liability Convention;
  - (iii) the date of entry into force of this Protocol;
  - (iv) any proposal to amend limits of liability which has been made in accordance with Article 15, paragraph 1;
  - (v) any amendment which has been adopted in accordance with Article 15, paragraph 4;
  - (vi) any amendment deemed to have been accepted under Article 15, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;
  - (vii) the deposit of any instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;
  - (viii) any denunciation deemed to have been made under Article 16, paragraph 5;
  - (ix) any communication called for by any Article of this Protocol;
- (b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to this Protocol.

3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

SCHEDULE 2—continued

Article 18

Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON, this twenty-seventh day of November one thousand nine hundred and ninety-two.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

ANNEX

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Table with 4 columns: Name of ship, Distinctive number or letters, Port of registry, Name and address of owner.

This is to certify that there is in force in respect of the above-named ship 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.

Type of Security .....

Duration of Security .....

Name and Address of the Insurer(s) and/or Guarantor(s)

Name .....

Address .....

This certificate is valid until .....

Issued or certified by the Government of .....

(Full designation of the State)

At ..... On .....

(Place)

(Date)

Signature and Title of issuing or certifying official

**SCHEDULE 2—continued**

**Explanatory notes:**

1. If desirable, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
  2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
  3. If security is furnished in several forms, these should be enumerated.
  4. The entry “Duration of Security” must stipulate the date on which such security takes effect.’”.
-

**SCHEDULE 3**

**PART 1**

**AMENDMENTS OF THE NAVIGATION ACT 1912**

Column 1	Column 2—Omit	Column 3—Substitute
6 (definition of "discharge")	his	his or her
6(4A)	he shall, until he	he or she is to, until he or she
6(4B)	he	he or she
6A	he his	he or she his or her
6B	his (wherever occurring) he (wherever occurring)	his or her the seaman
6C	he (wherever occurring) his	he or she his or her
6E(2)	his	his or her
7(1)(d)(ii)	his (first and third occurring) his (second occurring)	his or her the pilot's
9(1)	him his	him or her his or her
10(c)(i)	his	his or her
17	his	his or her
50(3)	his	his or her
50(4)	he	he or she
50(5)	his (wherever occurring) he (wherever occurring) him (wherever occurring)	his or her he or she the seaman
57	his	his or her
62A(2)	his he	his or her he or she
63	he	the seaman
70(1)	his	his or her

**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
70(2)	he his (wherever occurring)	he or she his or her
70(4)	his (wherever occurring)	his or her
71(1)	he	he or she
71(2)	he (wherever occurring) his	he or she his or her
75(3)	his (wherever occurring)	his or her
77(1)	his	his or her
77(1)(a)	him	the seaman
77(1)(b)	him	the seaman
77(2)	he	he or she
77(3)	him (wherever occurring) he	the seaman he or she
78	he (wherever occurring) his (wherever occurring)	the seaman his or her
81(1)	his	his or her
81(2)	him	him or her
81(4)	him his	him or her his or her
82(1)(a)	he	he or she
82(1)(b)	his (wherever occurring)	his or her
82(2)	he (first and third occurring) he (second and last occurring) his (wherever occurring)	the seaman he or she his or her
83(1)(a)	his	his or her
83(1)(b)	his (wherever occurring)	his or her
83(1)(c)	his	his or her
83(1)(d)	he	he or she



*Transport Legislation Amendment No. 95, 1995*

**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
83(4)	him	the seaman
84	he his (wherever occurring) himself	the seaman his or her himself or herself
85(1)	his	the seaman's
85(1)(b)	his (wherever occurring) he (first and last occurring) he (second occurring)	the seaman's he or she  the seaman
85(2)	his (first occurring) his (second occurring)	the seaman's his or her
85(3)	his (first occurring) he his (last occurring)	his or her the seaman the seaman's
85(3)(b)	he (first occurring) he (second and third occurring)	the seaman he or she
88(1)	his (first occurring) his part his (last occurring) he (wherever occurring)	his or her the part of the seaman the seaman's the seaman
91(1)(a)	him	the seaman
91(1)(b)	him (wherever occurring)	the master
93(1)	he (wherever occurring) his	the seaman his or her
93(2)	his (wherever occurring) he	his or her the seaman
94(1)	his	his or her
94(2)	him his	the master his or her
99(b)	him	that person
101(1)	he him	the seaman the seaman

*Transport Legislation Amendment No. 95, 1995*

**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
104(1)	himself	himself or herself
104(2)	he (wherever occurring)	he or she
110(1)	his (first occurring) his (second occurring)	his or her the seaman's
116(4)	his	his or her
120(2)	his satisfaction	the satisfaction of that person
120(4)	his agent	the agent of the owner
120(4)(b)	he	he or she
124(2)	he	that person
125(2)	his (first occurring) his (second occurring)	the his or her
127(1)	his proper return port (first occurring)	his or her proper return port
127(1)(b)	his wilful act or default or to his misbehaviour	a wilful act or default, or to misbehaviour, on the part of the seaman
127(1)(c)	his proper return	that
127(1)(d)	he his proper return	he or she that
127(1)(e)	his proper return	that
127(1)(f)	he arrives at his proper return his (second and fifth occurring) his (third and last occurring) his proper return (second occurring)	arriving at that  his or her  the seaman's  that
127(2)	his wilful act or default or to his misbehaviour	a wilful act or default, or to misbehaviour, on the part of the seaman

*Transport Legislation Amendment No. 95, 1995*

**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
127(3)(b)	he his	the seaman his or her
127(3)(c)	his	the seaman's
127(3)(e)	he	he or she
132(1)	his proper return port  he (first and second occurring) his (second occurring)	his or her proper return port the seaman  the seaman's
132(1)(b)	he	he or she
132(2)	other than his proper return port he (first and second occurring) his (second occurring)	other than his or her proper return port the seaman  the seaman's
132(2)(a)	he arrives at his proper return his (second occurring)	the seaman arrives at that  his or her
132(2)(a)(ii)	on which he so arrives	of that arrival
132(2)(b)	he does not arrive at his proper return his (second occurring)	the seaman does not arrive at that his or her
132(2)(b)(i)	he arrives at his proper return	the seaman arrives at that
132(2)(b)(ii)	he	the seaman
132(2)(b)(iii)	he	the seaman
132(3)	he arrives at his proper return he (last occurring)	the seaman arrives at that  the seaman
132(3)(a)	he refuses his proper return	he or she refuses that
132(3)(a)(i)	he (wherever occurring)	he or she
132(3)(a)(ii)	he his proper return	he or she that

**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
132(3)(b)	he (first occurring) he (second occurring) his proper return	the seaman he or she that
132(4)	his (first occurring) his (second and third occurring) he his own act, default or neglect	his or her the seaman's  he or she an act, default or neglect on the part of the seaman
132(4A)	he (first and third occurring) he (second occurring) his	he or she  the seaman his or her
132(5)(a)	he	the seaman
132(5)(b)	his proper return (wherever occurring) his (last occurring)	that  his or her
132(6)(a)	his own wilful act or default or to his misbehaviour	a wilful act or default, or to misbehaviour, on the part of the seaman
132(6)(b)	him his	the seaman his or her
132(6)(c)	he	the seaman
132(7)	his wilful act or default or to his misbehaviour	a wilful act or default, or to misbehaviour, on the part of the seaman
132(8) (definition of "agreement")	him	the master
132A(1)(b)	he	the owner
132B(1)	his (wherever occurring) he	his or her the seaman
132B(2)	his he	his or her he or she

**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
132B(3)	himself (wherever occurring) he (first occurring) he (second occurring)	himself or herself the seaman he or she
132B(4)	he	the seaman
139(1)	he him	he or she him or her
139(1)(a)	his	his or her
145(2)	him	him or her
148C(1)(b)	his	his or her
148C(1)(c)	his	his or her
148C(1)(d)(ii)	he	he or she
149(1) (definition of “property”)	him his (wherever occurring)	the seaman his or her
150	his	his or her
151(1)	his	his or her
151(3)	his (first occurring) his (second occurring)	his or her the master’s
151(4)	his (first occurring) his (second occurring)	his or her the master’s
151(5)	he	he or she
152(1)	he	the master
152(2)	him he (first occurring) he (second occurring) his	the owner the owner he or she his or her
153	his charge	his or her charge
153(b)	his he	the person’s he or she
153(c)	he (first occurring) he (second occurring)	the person he or she

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**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
154(1)	his him	his or her the seaman
155A	his	his or her
156(1)	his (wherever occurring)	his or her
158	his (wherever occurring)	his or her
158(7)	he	he or she
160	himself	himself or herself
161(2)	his	his or her
162	his (wherever occurring)	his or her
162(4)	him	the owner or agent
163A	his proper return (wherever occurring)	his or her
164(2)(c)	his	the
167(2)	his	his or her
168(1)	he his (wherever occurring)	the master his or her
168(2)	His him	The master's him or her
178	his (first, third and last occurring) his (second occurring)	his or her a
180	his (wherever occurring)	his or her
187D	his	his or her
187E	his	his or her
190AA	him (wherever occurring)	him or her
191B(2)	his he	his or her he or she
192A(2)	he	he or she
192C(3)	he	he or she
194(1)	he	he or she

**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
194(2)	him he	him or her the surveyor
194(3)(a)	him	him or her
194(3)(b)	him	him or her
206S(2)(b)	he	he or she
206T(3)(d)	he	he or she
206W	him (wherever occurring)	the officer of Customs
206W(1)(b)	he	he or she
208(1)	he (first occurring) he (second occurring)	that person he or she
209	his (wherever occurring)	his or her
211(1)	his him	his or her the owner
212	he	the master
227A	him (wherever occurring)	that officer
227C	he	the surveyor
227D(2)	his he	his or her that person
227E(1)	his	his or her
230	he	that person
235(3)	his	his or her
239	his	his or her
251	he	he or she
252	he	the owner
258AA	his	his or her
258A	his (first occurring) his (second occurring)	his or her that
259(3)	he his	he or she his or her

SCHEDULE 3—continued

Column 1	Column 2—Omit	Column 3—Substitute
260(2)	he him his	he or she him or her his or her
261(1)	he	that person
264	he (wherever occurring) his (wherever occurring)	he or she his or her
265(1)	he (wherever occurring) his	he or she his or her
265(2)	he his (wherever occurring)	he or she his or her
265(3)	he him	the master him or her
265(4)	he  him	the first-mentioned master him or her
265(6)	him his	him or her his or her
265(9)	his	his or her
267J	he him	he or she him or her
267X	he him	he or she him or her
268(1)	him	him or her
269	he (first occurring) he (second occurring) his	the owner or agent he or she his or her
269A(1)	his (wherever occurring) he shall	his or her the master must
269F(1)	he	he or she
269F(3)	he	he or she
269F(5)	he	the master
269G(1)	he	he or she



**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
269H(6)	he	he or she
269J(4)	he	he or she
269K(3)	he (wherever occurring) his	he or she the master's
272	him	the passenger
274(1)	himself	himself or herself
274(2)	he	that person
275	his he	his or her the passenger
276	his	his or her
278(2)	him his	such person his or her
278(3)	he his	he or she his or her
279(1)	himself his he (first occurring) he (second occurring) him	himself or herself his or her that person he or she the person
281(a)	his employ his (second and fourth occurring) his (third occurring) he him	the employ of the owner that person's  his or her he or she him or her
281(b)	his	his or her
282(1)(a)	his employ his (second occurring) he him	the employ of the owner that person's he or she him or her

**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
282(1)(b)	he has been he (second occurring) his he (third occurring) him	being that person his or her he or she him or her
282(1)(c)	his	his or her
282(1)(d)	his	his or her
282(1)(e)	he his	that person his or her
282(1)(f)	his (first and third occurring) his (second occurring)	his or her that
286(1)	he (first occurring) he (second occurring)	the Minister he or she
286(4)	his	the Minister's
286(6)	he	the Minister
288(5)	his	his or her
288(6)	he	he or she
289(2)	him	him or her
290(2)	his	the seaman's
291(2)	he (wherever occurring) his	the seaman his or her
293A(1)	he (wherever occurring)	he or she
296(1)	he	the receiver
297(1)	he him his (first occurring) his (second occurring)	he or she the receiver his or her the master's
299(2)	him	him or her
299(3)	his (first and third occurring) his (second occurring)	his or her the receiver's

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**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
300(2)	his (first occurring) his (second occurring) he	his or her that person he or she
302	he (first occurring) he (second occurring)	that person he or she
303	him (wherever occurring)	the receiver
304	he	he or she
305(1)	his (wherever occurring) him	his or her him or her
306(1)	his (first occurring) his (second occurring)	his or her the receiver's
307(a)	his	his or her
309	his him	the receiver's the receiver
311(2)	he his	that party his or her
317A	he his (wherever occurring)	he or she his or her
325(1)	him	him or her
325(2)	he his	he or she the
325(3)	him he	him or her the receiver
338	his	his or her
386	him (wherever occurring) his (wherever occurring)	him or her his or her
387(a)	his	that person's
387(b)	him (first occurring) him (second occurring)	that person him or her
387A	his	his or her

*Transport Legislation Amendment No. 95, 1995*

**SCHEDULE 3—continued**

Column 1	Column 2—Omit	Column 3—Substitute
389A(1)	himself he	himself or herself he or she
389A(3)	he him	the officer the officer
389A(5)	him he	the officer the officer
391(2)	he	he or she
401(1)	him	that official
401(3)(a)	by him delivered	delivered by such officer
401(3)(b)	him	the person
403(3)	his	his or her
404(b)	his	his or her
404(c)	he	he or she
405D	his	his or her
410B(2)	he	the master or owner
413(1)(c)	him	him or her
413(2)	he	he or she
415	his	his or her
417(1)	him his	him or her his or her
417(4)	his	that person's
424	Chairman (wherever occurring)	Chairperson
424(4C)	he	he or she

**SCHEDULE 3—continued**

**PART 2**

**AMENDMENTS OF THE PROTECTION OF THE SEA  
(CIVIL LIABILITY) ACT 1981**

Column 1	Column 2—Omit	Column 3—Substitute
10(1)	he his	he or she his or her
10(2)	his	his or her
13(2)(b)	his	his or her
15(4)	he (wherever occurring)	he or she
15(5)	he him	the officer the officer
16(3)	he (wherever occurring)	he or she
17(1)	for him to do so	to do so
17(3)	he	he or she
20(1)	his	his or her
21(a)	his	his or her
26(1)	him his	the Minister his or her

**SCHEDULE 4**

Section 3 and item 58 of  
Part H of Schedule 1

**SCHEDULE TO BE ADDED AFTER SCHEDULE 8 TO THE  
NAVIGATION ACT 1912**

**“SCHEDULE 9**

Section 294

**PART A**

**INTERNATIONAL CONVENTION ON SALVAGE, 1989**

THE STATES PARTIES TO THE PRESENT CONVENTION,

RECOGNIZING the desirability of determining by agreement uniform international rules regarding salvage operations,

NOTING that substantial developments, in particular the increased concern for the protection of the environment, have demonstrated the need to review the international rules presently contained in the Convention for the Unification of Certain Rules of Law relating to Assistance and Salvage at Sea, done at Brussels, 23 September 1910,

CONSCIOUS of the major contribution which efficient and timely salvage operations can make to the safety of vessels and other property in danger and to the protection of the environment,

CONVINCED of the need to ensure that adequate incentives are available to persons who undertake salvage operations in respect of vessels and other property in danger,

HAVE AGREED as follows:

Chapter I—General provisions

Article 1

Definitions

For the purpose of this Convention:

- (a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.
- (b) Vessel means any ship or craft, or any structure capable of navigation.
- (c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.
- (d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.
- (e) Payment means any reward, remuneration or compensation due under this Convention.
- (f) Organization means the International Maritime Organization.
- (g) Secretary-General means the Secretary-General of the Organization.

Article 2

Application of the Convention

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

**SCHEDULE 4—continued**

**Article 3**

Platforms and drilling units

This Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

**Article 4**

State-owned vessels

1. Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognized principles of international law unless that State decides otherwise.
2. Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

**Article 5**

Salvage operations controlled by public authorities

1. This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.
2. Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.
3. The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

**Article 6**

Salvage contracts

1. This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.
2. The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.
3. Nothing in this article shall affect the application of article 7 nor duties to prevent or minimize damage to the environment.

**Article 7**

Annulment and modification of contracts

A contract or any terms thereof may be annulled or modified if:

**SCHEDULE 4—continued**

- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

Chapter II—Performance of salvage operations

Article 8

Duties of the salvor and of the owner and master

1. The salvor shall owe a duty to the owner of the vessel or other property in danger:
  - (a) to carry out the salvage operations with due care;
  - (b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimize damage to the environment;
  - (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
  - (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.
2. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor:
  - (a) to co-operate fully with him during the course of the salvage operations;
  - (b) in so doing, to exercise due care to prevent or minimize damage to the environment; and
  - (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

Article 9

Rights of coastal States

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognized principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

Article 10

Duty to render assistance

1. Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.
2. The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.



**SCHEDULE 4—continued**

3. The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

Article 11

Co-operation

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

Chapter III—Rights of salvors

Article 12

Conditions for reward

1. Salvage operations which have had a useful result give right to a reward.
2. Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.
3. This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

Article 13

Criteria for fixing the reward

1. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below:
  - (a) the salvaged value of the vessel and other property;
  - (b) the skill and efforts of the salvors in preventing or minimizing damage to the environment;
  - (c) the measure of success obtained by the salvor;
  - (d) the nature and degree of the danger;
  - (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
  - (f) the time used and expenses and losses incurred by the salvors;
  - (g) the risk of liability and other risks run by the salvors or their equipment;
  - (h) the promptness of the services rendered;
  - (i) the availability and use of vessels or other equipment intended for salvage operations;
  - (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.
2. Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward

**SCHEDULE 4—continued**

has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.

3. The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

**Article 14**

**Special compensation**

1. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.
2. If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30% of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.
3. Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).
4. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.
5. If the salvor has been negligent and has thereby failed to prevent or minimize damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.
6. Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

**Article 15**

**Apportionment between salvors**

1. The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.
2. The apportionment between the owner, master and other persons in the service of each salvaging vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

**SCHEDULE 4—continued**

**Article 16**

**Salvage of persons**

1. No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.
2. A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salvaging the vessel or other property or preventing or minimizing damage to the environment.

**Article 17**

**Services rendered under existing contracts**

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

**Article 18**

**The effect of salvor's misconduct**

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

**Article 19**

**Prohibition of salvage operations**

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

**Chapter IV—Claims and actions**

**Article 20**

**Maritime lien**

1. Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.
2. The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

**Article 21**

**Duty to provide security**

1. Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.

**SCHEDULE 4—continued**

2. Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.
3. The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

**Article 22**

Interim payment

1. The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.
2. In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

**Article 23**

Limitation of actions

1. Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.
2. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.
3. An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

**Article 24**

Interest

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

**Article 25**

State-owned cargoes

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings in rem against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognized principles of international law.

**SCHEDULE 4—continued**

**Article 26**

**Humanitarian cargoes**

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

**Article 27**

**Publication of arbitral awards**

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

**Chapter V—Final clauses**

**Article 28**

**Signature, ratification, acceptance, approval and accession**

1. This Convention shall be open for signature at the Headquarters of the Organization from 1 July 1989 to 30 June 1990 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Convention by:
  - (a) signature without reservation as to ratification, acceptance or approval; or
  - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
  - (c) accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

**Article 29**

**Entry into force**

1. This Convention shall enter into force one year after the date on which 15 States have expressed their consent to be bound by it.
2. For a State which expresses its consent to be bound by this Convention after the conditions for entry into force thereof have been met, such consent shall take effect one year after the date of expression of such consent.

**Article 30**

**Reservations**

1. Any State may, at the time of signature, ratification, acceptance, approval or accession, reserve the right not to apply the provisions of this Convention:
  - (a) when the salvage operation takes place in inland waters and all vessels involved are of inland navigation;
  - (b) when the salvage operations take place in inland waters and no vessel is involved;

**SCHEDULE 4—continued**

- (c) when all interested parties are nationals of that State;
  - (d) when the property involved is maritime cultural property of prehistoric, archaeological or historic interest and is situated on the sea-bed.
2. Reservations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.
  3. Any State which has made a reservation to this Convention may withdraw it at any time by means of a notification addressed to the Secretary-General. Such withdrawal shall take effect on the date the notification is received. If the notification states that the withdrawal of a reservation is to take effect on a date specified therein, and such date is later than the date the notification is received by the Secretary-General, the withdrawal shall take effect on such later date.

**Article 31**

Denunciation

1. This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

**Article 32**

Revision and amendment

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.
2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of eight States Parties, or one fourth of the States Parties, whichever is the higher figure.
3. Any consent to be bound by this Convention expressed after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

**Article 33**

Depositary

1. This Convention shall be deposited with the Secretary-General.
2. The Secretary-General shall:
  - (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;

**SCHEDULE 4—continued**

- (ii) the date of the entry into force of this Convention;
  - (iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;
  - (iv) any amendment adopted in conformity with article 32;
  - (v) the receipt of any reservation, declaration or notification made under this Convention;
- (b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.
3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depository to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

**Article 34**

**Languages**

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.

DONE AT LONDON this twenty-eighth day of April one thousand nine hundred and eighty-nine.

**PART B**

**COMMON UNDERSTANDING CONCERNING ARTICLES 13 AND 14 OF  
THE INTERNATIONAL CONVENTION ON SALVAGE, 1989**

It is the common understanding of the Conference that, in fixing a reward under article 13 and assessing special compensation under article 14 of the International Convention on Salvage, 1989 the tribunal is under no duty to fix a reward under article 13 up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under article 14.”.

**NOTES ABOUT SECTION HEADINGS**

1. On the commencement of item 15 of Part G of Schedule 1, the heading to section 11 of the *Motor Vehicle Standards Act 1987* is omitted and the following heading is substituted:  
**“Withdrawal of identification plate authority”.**
  2. On the commencement of item 17 of Part G of Schedule 1, the heading to section 13 of the *Motor Vehicle Standards Act 1987* is omitted and the following heading is substituted:  
**“Vehicles taken to have identification plates”.**
  3. On the commencement of item 15 of Part H of Schedule 1, the heading to section 206G of the *Navigation Act 1912* is omitted and the following heading is substituted:  
**“Cargo steamships—safety radio certificates”.**
  4. On the commencement of item 31 of Part H of Schedule 1, the heading to section 225 of the *Navigation Act 1912* is omitted and the following heading is substituted:  
**“Particulars in certificate to be entered in log-book”.**
  5. On the commencement of item 55 of Part H of Schedule 1, the heading to section 386A of the *Navigation Act 1912* is omitted and the following heading is substituted:  
**“Impairment of person’s capacity to carry out duties as master or seaman”.**
  6. On the commencement of Schedule 3, the heading to section 110 of the *Navigation Act 1912* is omitted and the following heading is substituted:  
**“Return of foreign-going seaman to ship”.**
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[*Minister’s second reading speech made in—  
House of Representatives on 28 February 1995  
Senate on 8 March 1995*]