

Protection of the Sea (Oil Pollution Compensation Fund) Regulations (Amendment) 1996 No. 221

EXPLANATORY STATEMENT

STATUTORY RULES 1996 No. 221

Issued by the Authority of the Minister for Transport and Regional Development

Protection of the Sea (Oil Pollution Compensation Fund) Act 1993

Protection of the Sea (Oil Pollution Compensation Fund) Regulations (Amendment)

The *Protection of the Sea (Oil Pollution Compensation Fund) Act 1993* (the Act) received Royal Assent on 15 October 1993. The purpose of that Act is to give effect to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (the 1971 Fund Convention) and to the 1976 and 1992 Protocols.

The 1971 Fund Convention entered into force in Australia on 8 January 1995 and was implemented from that date through the proclamation of Chapters 1, 2 and 4 of the Act and the making of the Protection of the Sea (Oil Pollution Fund) Regulations (the Regulations).

The 1971 Fund Convention established a regime for compensating victims of oil pollution damage. This is achieved by applying an annual levy on any person who receives after carriage by ship more than 150,000 tonnes of 'contributing oil' in a calendar year. In Australia's case, this refers to Australian oil importers. 'Contributing oil', for the purposes of the Convention includes mainly crude oil and heavy fuel oil. Non-persistent oil such as gasoline light diesel and kerosene do not fall within the scope of the Convention.

The Protocol of 1992 (the 1992 Fund Convention) to amend the International Convention on the establishment of an International Fund for Compensation for Oil Pollution Damage 1971, provides for an increase in the amount of compensation available to a person who suffers loss as a result of pollution damage from oil tankers.

Section 47 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or matters necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Australia acceded to the 1992 Fund Convention on 9 October 1996. The Protection of the Sea (Oil Pollution Compensation Fund) regulations (Amendment) prescribes certain additional matters provided in Chapter 3 of the Act in relation to the 1992 Fund Convention.

These amending regulations are required to enable the introduction of the 1992 Fund Convention through the *Protection of the Sea (Oil Pollution Compensation Fund) Act 1993*. The regulations prescribe certain additional matters including interpretation, the jurisdiction of Australian courts in relation to an action, conditions under which foreign judgements may be considered, define certain terms to be used, payments that are required and records to be maintained.

Details of the amending Regulations are:

Regulation 1 of the regulations provides for the commencement of the amending regulations.

Regulation 2 of the regulations provides for the amendment of the existing Fund Regulations as set out in regulations 3 to 12 inclusive.

Regulation 3 of the regulations amends regulation 3 to provide for interpretation of the regulations taking into account the provisions of the 1992 Fund Convention in addition to the 1971 Fund Convention.

Regulations 4, 5, 6, 7 and 8 of the regulations provides for an amendment to Part 2 of the regulations to extend the jurisdiction of Australian Courts in relation to claims for compensation or indemnification and the registration by an Australian Court of foreign judgments against the International Oil Pollution Fund under the 1992 Fund Convention.

Regulations 9, 10 and 11 of the regulations amends Part 3 of the regulations in relation to the parallel requirements of the 1992 Fund Convention for the payment of subscriptions and late payments, and the related records to be maintained.

Regulation 12 of the regulations amend the schedule of the regulations to provide for the 1992 Fund Convention requirements.