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Statutory Rules 1983 No. 1

222)

Protection of the Sea (Civil Liability) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and in pursuance of section 4 of the *Acts Interpretation Act 1901*, hereby make the following Regulations under the *Protection of the Sea (Civil Liability) Act 1981*.

Dated 7 October 1983.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

(Sgd) Peter Morris
Minister of State for Transport

Citation

1. These Regulations may be cited as the Protection of the Sea (Civil Liability) Regulations.

Interpretation

2. (1) In these Regulations, unless the contrary intention appears, "the Act" means the *Protection of the Sea (Civil Liability) Act 1981*.

(2) In these Regulations, except in so far as the contrary intention appears, an expression used in a regulation made for the purposes of a provision in either Part II or Part III of the Act, and used in the Convention (whether or not a particular meaning is assigned to it by the Convention) has, in that regulation, the same meaning as in the Convention.

Conversion into Australian currency

3. (1) Where, in relation to a ship registered in a country to which the Civil Liability Convention applies, being a country for which the Protocol is not in force, the liability of the owner of the ship in respect of an incident is limited to an aggregate amount of 2,000 francs for each ton of the ship's tonnage, the

conversion of amounts of money expressed in the franc shall be converted into Australian currency as follows:

- (a) 15 francs are to equal one special drawing right; and
 - (b) special drawing rights are to be converted into Australian currency according to the value of special drawing rights applicable on the date of the constitution of the fund.
- (2) In this regulation—
- (a) a reference to special drawing rights shall be read as a reference to special drawing rights within the meaning of the *International Monetary Agreements Act 1947*; and
 - (b) a reference to the value of special drawing rights applicable on a day shall be read as a reference to the value of special drawing rights on that day calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on that day for its operations and transactions.

Acceptable guarantees

4. Each of the following kinds of guarantees are acceptable for the purposes of paragraph 3 of Article V of the Convention:

- (a) a guarantee given by a bank within the meaning of the *Banking Act 1959*;
- (b) a letter of guarantee given by an organization known as a Maritime Protection and Indemnity Association, being an organization the members of which carry on the business of marine insurance including insurance in respect of pollution damage;
- (c) a guarantee given by a guarantor approved by the Minister or by an officer of the Department authorized in writing by the Minister for the purpose of this regulation.

Relevant insurance certificate

5. A certificate issued, for the purposes of Article VII of the Convention, by or under the authority of the Government of a country to which the Civil Liability Convention applies in respect of a ship registered in a country that is not a country to which the Civil Liability Convention applies, being a certificate issued on behalf of the Government of that last-mentioned country, shall be taken to be a relevant insurance certificate in respect of that ship for the purposes of paragraph 15 (7) (c) of the Act.

Prescribed form of application for an insurance certificate

6. For the purposes of paragraph 16 (2) (a) of the Act, the form set out in Schedule 1 is prescribed.

Prescribed person for the purposes of sub-section 16 (2)

7. For the purposes of paragraph 16 (2) (b) of the Act, the person for the time being occupying, or performing the duties of—

- (a) an office of Regional Director in the Department; or

(b) the office of First Assistant Secretary, Marine Operations Division in the Department,
is a prescribed person.

Prescribed form of insurance certificate

8. For the purposes of paragraph 16 (4) (a) of the Act, the form set out in Schedule 2 is prescribed.

Fee for issue of an insurance certificate

9. (1) Subject to sub-regulation (2), a fee of \$50 is prescribed for the issue of an insurance certificate in respect of a ship under section 16 of the Act.

(2) A fee of \$30 is prescribed for the issue of an insurance certificate in respect of a ship under section 16 of the Act where the owner of the ship is maintaining insurance or other financial security in respect of that ship that is not, in any material particular (other than the period for which that insurance or other financial security remains in force) different from the insurance or other financial security maintained by the owner at the time of the issue, in respect of that ship, of another insurance certificate under that section.

Prescribed person for the purposes of sub-section 16 (6) of the Act

10. For the purposes of sub-section 16 (6) of the Act, the person for the time being occupying, or performing the duties of, the office of First Assistant Secretary, Marine Operations Division, in the Department is prescribed.

Limits of ship-owner's liability under sub-section 20 (3) of the Act

11. (1) The amount prescribed for the purposes of paragraph 20 (3) (a) of the Act is an amount equal to the value of 133 special drawing rights, being the value applicable on the first day of the incident.

(2) The amount prescribed for the purposes of paragraph 20 (3) (b) of the Act is an amount equal to the value of 14 million special drawing rights, being the value applicable on the first day of the incident.

(3) In this regulation—

(a) a reference to special drawing rights shall be read as a reference to special drawing rights within the meaning of the *International Monetary Agreements Act 1947*; and

(b) a reference to an amount equal to the value of special drawing rights applicable on a day shall be read as a reference to the amount that is the equivalent in the currency of Australia of the value of special drawing rights on that day calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on that day for its operations and transactions.

Tonnage factor

12. For the purposes of the definition of "tonnage factor" in sub-section 20 (7) of the Act, the number that may be ascertained in relation to the ship is a number equal to 40 per cent of the weight in tons of oil of a specific gravity of 0.9 that the ship is capable of carrying in bulk as cargo.

SCHEDULE 1

Regulation 6

COMMONWEALTH OF AUSTRALIA

Protection of the Sea (Civil Liability) Act 1981

APPLICATION FOR CERTIFICATE OF INSURANCE

To the Minister of State administering the *Protection of the Sea (Civil Liability) Act 1981*
I/We* (full name of each applicant)
of (address and telephone number of each applicant)

being the owner (s)/master/agent* of the ship, particulars of which are set out below, hereby apply for the issue of an insurance certificate under sub-section 16 (1) of the *Protection of the Sea (Civil Liability) Act 1981* in respect of that ship.

Particulars of the insurance or other financial security maintained by the owner (s) in respect of the ship are set out below.

Particulars of ship

Name of ship:
Type of ship (in terms of purpose):
Official number or other distinctive number or letters:
Nationality of ship:
Port of registry:
Tonnage†:

Particulars of insurance

Type and amount of security:
Duration of the security: from _____ to _____
Name and Address‡ of each insurer or organization providing financial security:
Address‡ of place where insurance or security is established:

Dated _____

(Signature of each applicant)

* Strike out whichever is inapplicable.

† Insert the amount of the tonnage of the ship ascertained in accordance with paragraph 10 of Article V of the International Convention on Civil Liability for Oil Pollution Damage, 1969.

‡ Insert address of principal place of business and, if different, the postal address for correspondence.

SCHEDULE 2

Regulation 8

COMMONWEALTH OF AUSTRALIA
 Protection of the Sea (Civil Liability) Act 1981
 CERTIFICATE OF INSURANCE

Particulars of ship

Name of ship	Distinctive number or letters	Port of registry	Name and address* of each owner

This is to certify that the owner (s) of the ship, particulars of which are set out above, is (are) maintaining insurance or other financial security, particulars of which are set out below, in respect of the ship in an amount that will cover the limits of liability prescribed by paragraph 1 of Article V of the International Convention on Civil Liability for Oil Pollution Damage, 1969 in relation to that ship.

Particulars of insurance

Type and amount of security †:
 Duration of the security: from _____ to _____
 Name and address* of insurer (s) and/or guarantor (s) ‡:
 Address* of place where insurance or security is established:
 This certificate, unless sooner cancelled, is valid from _____ to _____
 Issued and certified by the Government of the Commonwealth of Australia at (Place) on (Date).

.....
 Minister of State administering the
 Protection of the Sea (Civil Liability) Act 1981 (or delegate)

* Insert address of principal place of business.
 † Where one organization has provided different types of security, each type of security and the amount thereof should be set out.
 ‡ Where insurance is provided by more than one organization, set out the name and address of each such organization and the type and amount of security provided by that organization.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 1 1983. 14 October