

Protection of the Sea (Oil Pollution Compensation Fund) Regulations (Amendment) 1998 No. 87

EXPLANATORY STATEMENT

STATUTORY RULES 1998 NO. 87

Issued by the Authority of the Minister for Workplace Relations and Small Business

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) gives effect to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 and the 1976 and 1992 Protocols.

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.

The 1971 Fund Convention established a regime for compensating victims of oil pollution damage and entered into force in Australia on 8 January 1995. This is achieved by applying an annual levy on any person who receives after carriage by sea more than 150,000 tonnes of "contributing oil" in a calendar year. In Australia's case this refers to Australian importers.

The Protocol of 1992, in force in Australia from 9 October 1996, established the 1992 Fund and provided for an increase in the amount of compensation available to a person who suffers loss as a result of pollution damage from oil tankers. Both Funds have been operating in Australia.

However, in accordance with the internationally agreed process for phasing out the 1971 Convention Australia has denounced the 1971 Fund with effect from 15 May 1998.

The Regulations have given effect to both the 1971 and the 1992 Funds and the amendment removes the requirements associated with compliance with the 1971 Fund.

Details of the amending Regulations are:

Regulation 1 provides that the amending regulations commence on 15 May 1998 the day from when Australia has denounced the 1971 Fund.

Regulation 2 provides that the regulations are amended as provided in regulations 3 to 12 inclusive.

Regulation 3 amends the definition of certain terms used in the regulations to take account of the deletion of requirements related to the 1971 Fund.

Regulation 4 amends existing regulation 4 to remove reference to the 1971 Fund Convention in relation to the jurisdiction of courts in Australia.

Regulation 5 amends existing regulation 5 to remove reference to the 1971 Fund Convention in relation to court fees.

Regulation 6 amends existing regulation 6 to remove reference to the 1971 Fund Convention in connection with application for registration of foreign judgments.

Regulation 7 amends existing regulation 10 to remove reference to the 1971 Fund Convention in relation to evidence in support of an application to register a judgment.

Regulation 8 amends existing regulation 20 to remove reference to the 1971 Fund Convention in relation to the issue of certificates of judgment.

Regulation 9 amends existing regulation 21 to remove reference to the 1971 Fund Convention in relation to the method of paying subscriptions and late payments to the Fund.

Regulation 10 amends existing regulation 22 to remove reference to the 1971 Fund Convention in relation to the records of payments to be kept.

Regulation 11 amends existing regulation 24 to remove reference to the 1971 Fund Convention in relation to the production of documents to determine a person's liability under the Convention.

Regulation 12 amends the Schedule of the regulations to remove reference to the 1971 Convention in the directions for completion of the prescribed form of account.