



New South Wales

# Marine Pollution Regulation 2024

under the

Marine Pollution Act 2012

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Marine Pollution Act 2012*.

JO HAYLEN, MP  
Minister for Transport

## Explanatory note

The object of this regulation is to repeal and remake the *Marine Pollution Regulation 2014*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

The regulation prescribes matters under the *Marine Pollution Act 2012* as follows—

- (a) the prevention of pollution by the following—
  - (i) oil,
  - (ii) noxious liquid substances,
  - (iii) packaged harmful substances,
  - (iv) sewage and greywater,
  - (v) garbage,
- (b) the matters that must be included in the preparation of emergency and other plans,
- (c) the reporting of pollution incidents,
- (d) providing for matters relating to the certification of the construction of ships,
- (e) setting the fees to be charged for certain services,
- (f) providing for decisions that are administratively reviewable by the Civil and Administrative Tribunal.

This regulation is made under the *Marine Pollution Act 2012*, including section 243, the general regulation-making power.

This regulation comprises or relates to the following—

- (a) matters of a machinery nature,
- (b) matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth,
- (c) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.



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## Marine Pollution Regulation 2024

under the

Marine Pollution Act 2012

### Part 1 Preliminary

#### 1 Name of regulation

This regulation is the *Marine Pollution Regulation 2024*.

#### 2 Commencement

This regulation commences on 25 March 2024.

**Note—** This regulation repeals and replaces the *Marine Pollution Regulation 2014*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

#### 3 Definitions

The dictionary in Schedule 7 defines words used in this regulation.

**Note—** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

## Part 2 Oil

### Division 1 Shipboard oil pollution emergency plans and oil spill response plans

#### 4 Shipboard oil pollution emergency plan

For the Act, section 97, a shipboard oil pollution emergency plan must comply with the requirements of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth, section 11A(4).

#### 5 Trading ships visiting Lord Howe Island must have oil spill response plan—the Act, s 243(2)(c)

- (1) This section applies to a ship—
  - (a) used wholly or primarily to carry cargo, and
  - (b) on a voyage—
    - (i) to or from Lord Howe Island, or
    - (ii) on which Lord Howe Island is a port of call.
- (2) A ship to which this section applies must have on board—
  - (a) an oil spill response plan written in English and approved by the Minister that provides for the following—
    - (i) the equipment, materials and substances that must be carried on board the ship to respond to an oil spill,
    - (ii) the way the equipment, materials and substances must be stowed and maintained,
    - (iii) the action to be taken by the master and crew of the ship if an oil spill occurs,
    - (iv) the training that must be completed by the master and crew, and
  - (b) the equipment, materials and substances required by the oil spill response plan.  
Maximum penalty—\$11,000.
- (3) The master and crew of the ship must be trained to apply the oil spill response plan.  
Maximum penalty—\$11,000.
- (4) Both the owner and the master of the ship may be proceeded against for an offence under this section.
- (5) An oil spill response plan may be approved by the Minister, either generally or for a specified ship.

### Division 2 Oil record books

#### 6 Oil record books

- (1) For the Act, sections 113 and 114(1)—
  - (a) a ship mentioned in the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth, section 12(1)(a) must carry oil record books consisting of the form set out in MARPOL, Annex I, Appendix III, Parts I and II, and
  - (b) a ship mentioned in of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth, section 12(1)(b) must carry oil record books consisting of the form set out in MARPOL, Annex I, Appendix III, Part I.

- (2) A time stated in an oil record book must be expressed—
- (a) in Co-ordinated universal time, or
  - (b) if the conversion to Co-ordinated universal time can not readily be made—in ship's time.

**Note—** See *Marine Order 91 (Marine pollution prevention — oil) 2014* of the Commonwealth, section 30.

## 7 Prescribed operations or occurrences

For the Act, section 117(1), each of the following is a prescribed occurrence—

- (a) discharging oil or an oily mixture from a ship into the sea to secure the safety of the ship or to save life at sea,
- (b) discharging oil or an oily mixture into the sea because of damage to the ship or its equipment,
- (c) discharging substances containing oil into the sea to deal with a specific pollution incident,
- (d) failure of the ship's oil discharge monitoring control system,
- (e) failure of the ship's oil filtering equipment,
- (f) accidental or other exceptional discharge of oil not mentioned in paragraphs (a)–(c).

**Note—** See *Marine Order 91 (Marine pollution prevention — oil) 2014* of the Commonwealth, section 31.

## Division 3 Insurance

### 8 Application of the Act, Part 13 to special recreational vessels—the Act, s 173

- (1) The Act, Part 13 applies to special recreation vessels.
- (2) This section has effect from 1 July 2025.
- (3) In this section—  
*special recreational vessel* has the same meaning as in the *Special Recreational Vessels Act 2019* of the Commonwealth.

## Part 3 Noxious liquid substances

### 9 Convention requirements—the Act, s 243(2)(a)

The following provisions of MARPOL, Annex II have effect for a vessel to which the Act, Part 4 applies—

- (a) regulation 12,
- (b) regulation 13, paragraph 3,
- (c) regulation 16.

**Note 1—** For regulation 12, paragraph 5, AMSA has approved the procedure for testing the efficiency of a cargo pumping system mentioned in Annex II, Appendix V.

**Note 2—** For regulation 13, paragraph 3, AMSA has approved the ventilation procedures mentioned in Annex II, Appendix VII.

**Note 3—** For regulation 16, AMSA has approved prewash procedures mentioned in Annex II, Appendix VI.

**Note 4—** See *Marine Order 93 (Marine pollution prevention — noxious liquid substances) 2014* of the Commonwealth, section 10.

### 10 Washing of tank

The master of a ship must ensure that a tank from which a noxious liquid substance has been unloaded is washed in accordance with the provisions of MARPOL, Annex II applying to the tank.

Maximum penalty—\$2,200.

### 11 Shipboard marine pollution emergency plan

For the Act, section 102, a shipboard marine pollution emergency plan must comply with the requirements of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth, section 22A(3).

**Note—** See *Marine Order 93 (Marine pollution prevention — noxious liquid substances) 2014* of the Commonwealth, section 23.

### 12 Cargo record book

- (1) For the Act, section 125(1), the prescribed matters that must be kept in a cargo record book are the matters set out in MARPOL, Annex II, Appendix II.
- (2) A time stated in a cargo record book must be expressed—
  - (a) in Co-ordinated universal time, or
  - (b) if the conversion to Co-ordinated universal time can not readily be made—in ship's time.

**Note—** See *Marine Order 93 (Marine pollution prevention — noxious liquid substances) 2014* of the Commonwealth, section 24.

### 13 Prescribed operations or occurrences

For the Act, section 117(1), each of the following is a prescribed occurrence—

- (a) discharging a noxious liquid substance from a ship into the sea to secure the safety of the ship or to save life at sea,
- (b) discharging noxious liquid substance into the sea because of damage to the ship or its equipment,
- (c) discharging noxious liquid substance into the sea to deal with a specific pollution incident,
- (d) an operation required to be recorded in the ship's cargo book by MARPOL, Annex II, Appendix II.

**Note**— See *Marine Order 93 (Marine pollution prevention — noxious liquid substances) 2014* of the Commonwealth, section 25.

**14 Meaning of “the Administration”**

- (1) For MARPOL, Annex II, regulation 4, paragraphs 2 and 4, AMSA is *the Administration*.
- (2) For MARPOL, Annex II, regulation 12, paragraph 5, each recognised organisation is *the Administration*.
- (3) In this section—  
*recognised organisation* has the same meaning as in *Marine Order 1 (Administration) 2013* of the Commonwealth.

## Part 4 Packaged harmful substances

### 15 Convention requirements—the Act, s 243(2)(a)

- (1) If a vessel has on board harmful substances in packaged form, the owner of the vessel must comply with MARPOL, Annex III, regulations 3–6.
- (2) For MARPOL, Annex III, regulation 5, paragraphs 1 and 2, AMSA is the designated organisation.
- (3) A copy of the special list, manifest or stowage plan mentioned in MARPOL, Annex III, regulation 5, paragraph 2 must be given before departure to AMSA at the AMSA office at or nearest to the port of loading.
- (4) In this section—

*packaged form* has the same meaning as in MARPOL, Annex III, regulation 1.

**Note 1**— MARPOL, Annex III, regulations 3 and 6 set out requirements for the packing and stowage of packaged harmful substances. MARPOL, Annex III, regulations 4 and 5 mention requirements for the transport of packaged harmful substances including the need to comply with the *International Maritime Dangerous Goods Code* (the **IMDG Code**) for marking and labelling and the preparation of a special list, manifest or stowage plan.

The IMDG Code as currently in force is available from the IMO website at <http://www.imo.org>. The IMO resolution that adopts or amends the IMDG Code is listed on AMSA's website.

**Note 2**— See *Marine Order 94 (Marine pollution prevention — packaged harmful substances) 2014* of the Commonwealth, section 8.

### 16 Washing substances overboard

For the Act, section 49, a harmful substance may be washed overboard only if the master—

- (a) has considered the physical, chemical and biological properties of the substance, and
- (b) reasonably considers washing the substance overboard is the most appropriate method of disposal, and
- (c) has authorised washing the substance overboard.

**Note**— See *Marine Order 94 (Marine pollution prevention — packaged harmful substances) 2014* of the Commonwealth, section 9.

## Part 5 Sewage and greywater

### Division 1 Preliminary

#### 17 Definitions

In this part—

**2012 Guidelines** means the *2012 Guidelines on implementation of effluent standards and performance tests for sewage treatment plants* adopted by IMO Resolution MEPC.227(64), as in force from time to time.

**aquaculture** has the same meaning as in the *Fisheries Management Act 1994*.

**waste collection facility** means a facility designed and constructed to receive the contents of a holding tank, a portable toilet or a greywater tank.

#### 18 Directions by authorised officers—the Act, s 243(2)(c)

- (1) An authorised officer may direct the owner or master of a vessel from which a relevant discharge is occurring to do 1 or more of the following—
  - (a) take specified action to ensure there is no further relevant discharge from the vessel,
  - (b) return the vessel to its mooring,
  - (c) if the vessel is a commercial vessel—stop commercial operations until—
    - (i) action specified under paragraph (a) has been taken, and
    - (ii) an authorised officer has inspected the vessel and given written approval for the vessel to resume commercial operation.
- (2) A direction referred to in subsection (1)(b) or (c) may not be given unless the authorised officer considers the direction is necessary to prevent a further relevant discharge from the vessel.
- (3) A person must comply with a direction under this section.  
Maximum penalty—\$11,000.
- (4) In this section—

**relevant discharge** means the following—

  - (a) a discharge of sewage in contravention of Division 2, and
  - (b) a discharge of greywater in contravention of Division 5.

### Division 2 Sewage

#### Subdivision 1 Discharge

#### 19 Application of subdivision—the Act, s 243(2)(k)

This subdivision does not apply to large ships.

#### 20 Offence—discharge of sewage from vessel—the Act, s 53(3)

- (1) The following persons are each guilty of an offence if untreated sewage is discharged from a vessel into State waters—
  - (a) the person who discharged the sewage,
  - (b) the owner of the vessel,
  - (c) the master of the vessel.  
Maximum penalty—\$11,000.

- (2) Untreated sewage may be discharged—
  - (a) into a waste collection facility, or
  - (b) in accordance with an environment protection licence.
- (3) It is a defence to prosecution for an offence under subsection (1)(b) and (c) if the defendant shows all reasonable precautions were taken to prevent the discharge.

## 21 Offence—discharging treated sewage in no discharge zones

- (1) For the Act, section 55B(1), the following are prescribed as no discharge zones—
  - (a) all inland waters,
  - (b) all intermittent closing and opening lagoons,
  - (c) waters in, or within 500m of, the following—
    - (i) an area used for aquaculture,
    - (ii) an area normally used for swimming,
    - (iii) a marina,
    - (iv) a marine park within the meaning of the *Marine Estate Management Act 2014*,
    - (v) an aquatic reserve within the meaning of the *Marine Estate Management Act 2014*,
  - (d) waters within 500m of the following—
    - (i) a beach,
    - (ii) a moored or anchored vessel,
    - (iii) a person in the water.
- (2) For the Act, section 55B(2), definition of **relevant vessel**, ships are prescribed.
- (3) The following persons are each guilty of an offence if treated sewage is discharged from a relevant vessel into a no discharge zone—
  - (a) the person who discharged the sewage,
  - (b) the owner of the vessel,
  - (c) the master of the vessel.Maximum penalty—\$11,000.
- (4) It is a defence to prosecution for an offence under subsection (3) if the defendant shows all reasonable precautions were taken to prevent the discharge.
- (5) Subsection (3) does not apply to a discharge authorised by an environment protection licence.
- (6) In this section—

**inland waters** means waters not subject to tidal influence.

**marina** has the same meaning as in the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

## Subdivision 2 Sewage systems

### 22 Sewage treatment plants

For the Act, section 55A(2), definition of **sewage system**, the prescribed requirements for a sewage treatment plant are the requirements set out in Schedule 5, section 4.

**23 Sewage systems—the Act, s 243(2)(a)**

- (1) This section applies to a vessel to which—
  - (a) MARPOL, Annex IV applies, and
  - (b) the 2012 Guidelines, section 4.2 does not apply.
- (2) A vessel to which this section applies must be equipped with—
  - (a) a sewage treatment plant that—
    - (i) has been tested and certified as required by Schedule 5, section 4, and
    - (ii) complies with—
      - (A) MARPOL, Annex IV, regulation 9, and
      - (B) for a system installed on a vessel after 31 December 2015—IMO Resolution MEPC.227(64), other than the requirements of the 2012 Guidelines, section 4.2, and
      - (C) for a system installed on a vessel after 31 December 2009 and before 1 January 2016—IMO Resolution MEPC.159(55), and
      - (D) for a system installed on a vessel before 1 January 2010—IMO Resolution MEPC.2(VI), or
  - (b) a sewage comminuting and disinfecting system complying with MARPOL, Annex IV, regulation 9, or
  - (c) a holding tank complying with MARPOL, Annex IV, regulation 9.
- (3) A vessel to which this section applies must have a standard discharge connection complying with MARPOL, Annex IV, regulation 10.
- (4) For a passenger vessel, the vessel's discharge pipeline may be fitted with a discharge connection approved by AMSA, for example, a quick-connection coupling.

**Note—** This section gives effect to MARPOL, Annex IV, regulations 9 and 10. See also *Marine Order 96 (Marine pollution prevention — sewage) 2018* of the Commonwealth, sections 7 and 9.

**24 Defective, altered or modified sewage systems—the Act, s 243(2)(c)**

- (1) This section applies to the following vessels, other than large ships—
  - (a) domestic commercial vessels,
  - (b) recreational vessels.
- (2) The master and owner of a vessel are each guilty of an offence if a sewage system, or part of the sewage system, on the vessel—
  - (a) is defective, or
  - (b) has been altered or modified in a way that enables the discharge of sewage into State waters.

Maximum penalty—

- (a) for an individual—\$2,200, or
  - (b) otherwise—\$11,000.
- (3) In this section—

***domestic commercial vessel*** means a commercial vessel required to be registered under the National Law.

***National Law*** has the same meaning as in the *Marine Safety Act 1998*.

**25 Sewage standards—the Act, s 243(2)(d)**

The owner of a vessel operating in State waters must ensure the vessel complies with all NSW sewage standards applying to the vessel.

Maximum penalty—\$11,000.

**Division 3 Sewage pollution prevention certificates—the Act, s 152**

**26 Prescribed ships**

- (1) For the Act, section 152, definition of *prescribed ship*, paragraph (c), the following ships with sewage systems and operating in State waters are prescribed—
  - (a) a Class 1 vessel,
  - (b) a Class 2 vessel,
  - (c) a Class 3 vessel,
  - (d) a Class 4 vessel that provides overnight accommodation for passengers.
- (2) This section has effect as follows—
  - (a) for subsection (1)(a)—from 1 July 2025,
  - (b) for subsections (1)(b) and (c)—from 1 July 2027,
  - (c) for subsection (1)(d)—from 1 July 2026.

**27 Exemptions—the Act, s 243(2)(k)**

This part does not apply to a vessel—

- (a) with a home port in another State or Territory, and
- (b) that operates in State waters for no more than 30 days in a 90 day period.

**28 Application for sewage pollution prevention certificate**

- (1) The master or owner of a prescribed ship may apply to the Minister for a sewage pollution prevention certificate.
- (2) An application must be—
  - (a) made in the form approved by the Minister, and
  - (b) accompanied by—
    - (i) a declaration of compliance, and
    - (ii) the application fee set out for this section in Schedule 4, section 2.
- (3) In this section—

*compliance authority* means the following—

  - (a) TfNSW,
  - (b) a person approved in writing by the Minister for this section.

*declaration of compliance* means a declaration given by a compliance authority certifying—

  - (a) the vessel has been inspected by the compliance authority, and
  - (b) the vessel’s sewage system complies with the NSW sewage standards.

**29 Issue of sewage pollution prevention certificate**

- (1) On receipt of an application for a sewage pollution prevention certificate, the Minister may—
  - (a) issue a certificate with or without conditions, or

- (b) refuse to issue a certificate.
- (2) A certificate must be issued in the form and in the way determined by the Minister.
- (3) A certificate is in force for 5 years from the date of issue unless cancelled.

**30 Replacement of sewage pollution prevention certificate**

- (1) The master or owner of a prescribed ship may apply to the Minister for the replacement of a sewage pollution prevention certificate.
- (2) An application must be—
  - (a) made in the form approved by the Minister, and
  - (b) accompanied by the fee set out for this section in Schedule 4, section 2.

**31 Cancellation of sewage pollution prevention certificate**

- (1) A sewage pollution prevention certificate may be cancelled by the Minister on the following grounds—
  - (a) the certificate was issued on the basis of incorrect or incomplete information, or
  - (b) the vessel's sewage system ceases to comply with the NSW sewage standards.
- (2) the Minister must give the owner of a vessel written notice of the cancellation of a certificate issued for the vessel.

**32 Sewage pollution prevention certificates—transitional matters**

- (1) The following actions may be taken for a ship before the date on which a ship becomes a prescribed ship in accordance with section 26—
  - (a) the master or owner of the ship may apply under section 28 for a sewage pollution prevention certificate,
  - (b) a sewage pollution prevention certificate may be issued under section 29.
- (2) A sewage pollution prevention certificate issued for a ship before the ship becomes a prescribed ship does not have effect until the date on which the ship becomes a prescribed ship in accordance with section 26.

**Division 4 Notification of accident, defect or proposed modification—  
the Act, s 148**

**33 Application of division**

This division applies to a ship for which a sewage pollution prevention certificate is in force.

**34 Notification of accidents**

The master and owner of a ship involved in an accident that substantially affects the integrity or operation of the sewage system on the ship must ensure that TfNSW is notified of the accident—

- (a) in writing, and
- (b) within 24 hours after the accident.

Maximum penalty—

- (a) for an individual—\$1,100, or
- (b) otherwise—\$5,500.

### **35 Notification of defects**

The master and owner of a ship with a defect that substantially affects the integrity or operation of the sewage system on the ship must ensure that TfNSW is notified of the defect—

- (a) in writing, and
- (b) within 24 hours after the defect is discovered.

Maximum penalty—

- (a) for an individual—\$1,100, or
- (b) otherwise—\$5,500.

### **36 Notification of modifications**

The master and owner of a ship must ensure that a modification of the sewage system on the ship does not occur unless—

- (a) written notice of the proposed modification has been given to TfNSW, and
- (b) TfNSW has approved the modification in writing.

Maximum penalty—

- (a) for an individual—\$2,200, or
- (b) otherwise—\$11,000.

### **37 Directions to undergo inspection or survey**

- (1) Following a notification under this division, TfNSW—
  - (a) may investigate the ship to determine if an inspection or survey of the ship is required, and
  - (b) following the investigation by TfNSW—may direct the owner of the ship to have the ship inspected or surveyed.
- (2) An owner who is given the direction must have the ship and its equipment, systems and fittings inspected or surveyed for the purpose of ensuring compliance with the sewage standards.

Maximum penalty—

- (a) for an individual—\$2,200, or
- (b) otherwise—\$11,000.

### **38 Investigation fee**

- (1) TfNSW may require the owner of a ship to pay the investigation fee set out in Schedule 4, section 2 for each hour spent investigating the ship under section 37(1).
- (2) A fee required to be paid under this section is recoverable by TfNSW in a court of competent jurisdiction.

## **Division 5 Greywater**

### **39 Application—the Act, s 243(2)(k)**

- (1) This division and Schedule 6 apply to the following commercial vessels—
  - (a) a Class 1 vessel or a Class 4 vessel for which hull construction for the vessel commenced after 31 December 2004,
  - (b) a vessel used on the Murray River or in Sydney Harbour if—
    - (i) hull construction for the vessel commenced after 31 December 2004, or
    - (ii) a greywater tank was installed in the vessel after 31 December 2004.

(2) In this section—

***Murray River*** includes—

- (a) the waters of the part of the Darling River and its tributaries from the junction of that river with the Murray River upstream approximately 42km to the overhead crossing at Avoca, and
- (b) the waters of the anabranches of the Murray River, and
- (c) the backed up waters of all dams and other impoundments on the Murray River from the South Australian border upstream to the source of the Murray River.

***Sydney Harbour*** means the waters of Sydney Harbour, including the waters of all tidal bays, rivers and their tributaries connected or leading to the harbour bounded by the mean high water mark and lying to the west of a line commencing at the southernmost point of North Head and running to the northernmost point of South Head.

**40 Offence—discharge of greywater from vessel—the Act, s 243(2)(d)**

(1) The following persons are each guilty of an offence if greywater is discharged from a vessel into State waters—

- (a) the person who discharged the greywater,
- (b) the owner of the vessel,
- (c) the master of the vessel.

Maximum penalty—\$11,000.

(2) Greywater may be discharged—

- (a) into a waste collection facility, or
- (b) in accordance with an environment protection licence.

(3) It is a defence to prosecution for an offence under subsection (1)(b) and (c) if the defendant shows all reasonable precautions were taken to prevent the discharge.

**41 Installation of greywater tanks—the Act, s 243(2)(d)**

The owner of a vessel operating in State waters must ensure a greywater tank is installed and maintained on the vessel as required by Schedule 6.

Maximum penalty—\$11,000.

## Part 6 Garbage

### 42 Garbage record book

- (1) For the Act, section 138(1), the prescribed matters that must be kept in a garbage record book are the matters set out in MARPOL, Annex V, Appendix II.
- (2) For the Act, section 141, each operation or occurrence mentioned in MARPOL, Annex V, Appendix II, section 4 is prescribed.
- (3) A time stated in a garbage record book must be expressed—
  - (a) in Co-ordinated universal time, or
  - (b) if the conversion to Co-ordinated universal time can not readily be made—in ship's time.

**Note**— See *Marine Order 95 (Marine pollution prevention — garbage) 2018* of the Commonwealth, section 10.

### 43 Garbage management plan

For the Act, section 108(1), a garbage management plan must comply with the requirements of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth, section 26FC(3).

**Note**— See *Marine Order 95 (Marine pollution prevention — garbage) 2018* of the Commonwealth, section 12.

## Part 7 Reporting

### 44 Definitions

(1) In this part—

***pollutant*** means the following—

- (a) oil,
- (b) an oily mixture,
- (c) a noxious liquid substance,
- (d) a mixture containing a noxious liquid substance.

***reportable transfer operation incident*** means the discharge of a pollutant into State waters—

- (a) from a place on land in connection with a transfer operation, or
- (b) from equipment or a purpose-built pipeline used in, or in connection with, a transfer operation, whether or not the discharge occurs during a transfer operation, other than a discharge occurring on the landward side of the first isolating valve on land of the equipment or pipeline.

***responsible person***, for a ship, means the following—

- (a) the owner of the ship,
- (b) the charterer of the ship,
- (c) the manager of the ship,
- (d) the operator of the ship.

(2) In this part, a reference to a pipeline includes the fittings and valves of the pipeline.

### 45 Reporting of reportable incidents

(1) For the Act, section 87(1), a report must be made —

- (a) in accordance with Schedule 3, and
- (b) within 24 hours after the master of the ship becomes aware of the reportable incident.

(2) For the Act, section 88, a supplementary report must be made—

- (a) in accordance with Schedule 3, and
- (b) within—
  - (i) 24 hours after the Minister requests the report, or
  - (ii) a longer period, not more than 14 days, approved by the Minister in the particular case.

(3) For the Act, section 89, a further supplementary report must be made—

- (a) in accordance with Schedule 3, and
- (b) within 24 hours after the master of the ship becomes aware of the significant further developments arising in relation to the reportable incident.

(4) For the Act, section 90(1) and (2), a report must be made—

- (a) in accordance with Schedule 3, and
- (b) within 24 hours after the occurrence of the reportable incident.

(5) For the Act, section 92(2), a further supplementary report must be made—

- (a) in accordance with Schedule 3, and
- (b) within—

- (i) 24 hours after the person making the report becomes aware of the relevant further developments, or
- (ii) a longer period, not more than 14 days, approved by the Minister in the particular case.

**46 Master must report reportable transfer operation incidents—the Act, s 87**

- (1) The master of a ship must report a reportable transfer operation incident, in relation to the ship, to the Minister.  
Maximum penalty—\$11,000.
- (2) The Minister may direct the master of the ship to give additional reports.
- (3) The master of a ship must comply with the direction.  
Maximum penalty—\$11,000.
- (4) A report under this section must be made—
  - (a) in accordance with Schedule 3, and
  - (b) for a report under subsection (1)—as soon as practicable after the reportable transfer incident, and within 24 hours after the incident, and
  - (c) for a report under subsection (2)—within 24 hours after the Minister gives the direction, or a longer period, not more than 14 days, approved by the Minister in writing.
- (5) It is a defence to a prosecution under this section if the master of the ship establishes—
  - (a) the master was unable to make the report, or
  - (b) the master had another reasonable excuse.

**47 Report if ship abandoned or master otherwise unable to make report—the Act, s 90**

- (1) Each responsible person for a ship must report a reportable transfer operation incident, in relation to the ship, to the Minister if—
  - (a) the ship is abandoned, or
  - (b) the master of the ship is unable to report the reportable transfer operation incident to the Minister.Maximum penalty—\$11,000.
- (2) The Minister may direct a responsible person for a ship to give additional reports.
- (3) A responsible person must comply with the direction.  
Maximum penalty—\$11,000.
- (4) A report under this section must be made—
  - (a) in accordance with Schedule 3, and
  - (b) for a report under subsection (1)—as soon as practicable after the responsible person becomes aware of the reportable transfer incident, and within 24 hours after becoming aware of the incident, and
  - (c) for a report under subsection (2)—within 24 hours after the Minister gives the direction, or a longer period, not more than 14 days, approved by the Minister in writing.
- (5) It is a defence to a prosecution under this section if the responsible person for the ship establishes—
  - (a) the person was unable to make the report, or

- (b) the person believed on reasonable grounds that another responsible person or the master of the ship had provided the report, or
- (c) the person had another reasonable excuse.

**48 Incomplete report**

- (1) If a report provided under this part is incomplete, the responsible person for the ship, or the person's agent, must report the missing particulars to the Minister without delay.  
Maximum penalty—\$11,000.
- (2) In a prosecution of a person for an offence under this part, it is a defence if the person proves that the person was not aware of the incident or had another reasonable excuse.

**49 False or misleading report**

A person must not, in a report under this part, make a statement that is false or misleading in a material particular.  
Maximum penalty—\$11,000.

## Part 8 Construction certificates

### 50 Ship construction certificates

For the Act, section 150(4), definition of *ship construction certificate*, paragraph (b), a certificate issued by a maritime authority of another State or of the Northern Territory certifying that a ship is constructed in accordance with MARPOL, Annex I is prescribed.

### 51 Chemical tanker construction certificates

For the Act, section 151(4), definition of *chemical tanker construction certificate*, paragraph (b), a certificate issued by a maritime authority of another State or of the Northern Territory certifying that a ship is constructed in accordance with MARPOL, Annex II is prescribed.

## Part 9 Miscellaneous

### 52 Prescribed officers

For the Act, sections 20, 34, 76, 121, 132, 145, 188 and 204, the officers listed in Schedule 1 are prescribed.

### 53 Minister may make orders—the Act, s 243(2)(b)

The Minister may, by written instrument, make orders to—

- (a) give effect to the following provisions of MARPOL—
  - (i) Annex I, other than provisions given effect by a provision of the Act or this regulation,
  - (ii) Annex II, other than provisions given effect by a provision of the Act or this regulation,
  - (iii) Annex V, other than provisions given effect by a provision of the Act or this regulation,
  - (iv) Article 8 and Protocol I, other than provisions given effect by a provision of the Act or this regulation, and
- (b) fix the fees to be paid for matters under an order.

### 54 Fees payable under the Act—the Act, s 243(2)(i)

The fee payable for a matter under the Act is the fee specified in Schedule 4, section 1 for the matter.

### 55 Exemptions relating to certain pipelines—the Act, s 243(2)(k)

- (1) The following persons are exempt from the operation of the Act for a discharge from a pipeline—
  - (a) the occupier of land on which the pipeline is situated,
  - (b) a lessee, licensee or user of a lease or licence for the use of the pipeline for the carriage of oil,
  - (c) the person in charge of the pipeline,
  - (d) another person responsible for the discharge of oil or a noxious liquid substance from the pipeline used in, or in connection with, a transfer operation.
- (2) This section does not apply to a prescribed purpose-built pipeline set out in Schedule 2.

### 56 Exemptions for certain classes of ship—the Act, s 243(2)(k)

The following classes of ship are exempt from the Act—

- (a) ships belonging to an arm of the Australian Defence Force,
- (b) ships belonging to the naval, military or air forces of a country other than Australia,
- (c) ships not referred to in paragraph (a) or (b) used, for the time being, only on government non-commercial service, and owned or operated by—
  - (i) Australia, or
  - (ii) the government of another country that is a party to MARPOL.

**57 Decisions reviewable by NCAT**

For the Act, section 244, a person may apply to the Civil and Administrative Tribunal for an administrative review, under the *Administrative Decisions Review Act 1997*, of—

- (a) the following decisions under section 29—
  - (i) a refusal to issue a sewage pollution prevention certificate,
  - (ii) the issue of a sewage pollution prevention certificate with conditions, or
- (b) the cancellation, under section 31, of a sewage pollution prevention certificate.

**58 Approved persons**

For the Act, section 247(3), definition of *approved person*, paragraph (f), the members of AMSA are prescribed.

**59 Savings**

- (1) The *Marine Pollution Regulation 2014* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Marine Pollution Regulation 2014*, had effect under that regulation continues to have effect under this regulation.

## Schedule 1 Prescribed officers

section 52

### Prescribed officers for the Act

For the Act, sections 20, 34, 76, 121, 132, 145, 188 and 204, the following persons are prescribed—

- (a) harbour masters under the *Marine Safety Act 1998*,
- (b) a person employed or engaged by the Port Authority of New South Wales and authorised in writing by the Chief Executive Officer of the Authority for the purpose of the section of the Act under which the person may exercise functions,
- (c) a member of the Transport Service authorised in writing by the Secretary of the Department of Transport for the purpose of the section of the Act under which the person may exercise functions.

## Schedule 2 Prescribed purpose-built pipelines

section 55

### 1 Botany Bay

- (1) The pipelines running—
  - (a) from Banksmeadow to Kurnell commencing at the control valve located within the Caltex Banksmeadow Terminal at latitude 33° 57.87' South, longitude 151° 13.08' East, then
  - (b) within the pipeline corridor situated on the southern and western sides of Botany and Bumborah Point Roads respectively for approximately 1,480m to Simblast Road, then
  - (c) generally southerly for approximately 300m to the high water mark of Botany Bay near Bumbora Point, then
  - (d) southerly for approximately 100m and generally south-westerly for approximately 3,450m to a point 470m west of the westernmost extremity of the jetty, then
  - (e) south-easterly for approximately 770m to a point midway along the inner end of the jetty, then
  - (f) along the jetty, to the high water mark of Kurnell Beach, then
  - (g) generally south-easterly for approximately 500m to a control valve located within the premises of Caltex Refineries (NSW) Pty Ltd at Kurnell, the submarine portion of the pipelines is shown as one line of symbols on a copy of *Naval Chart AUS 199 of Botany Bay*.
- (2) The pipelines running—
  - (a) from No 3 Berth (Submarine Terminal) in Botany Bay to Kurnell commencing at latitude 33° 59.76' South, longitude 151° 12.51' East, then
  - (b) southerly for approximately 580m to a point midway along the outer end of the jetty, then
  - (c) south-westerly and south-easterly along the jetty to the high water mark of Kurnell Beach, then
  - (d) generally south-easterly for approximately 500m to a control valve located within the premises of Caltex Refineries (NSW) Pty Ltd at Kurnell, the submarine portion of the pipelines is shown by one line of symbols on a copy of *Naval Chart AUS 199 of Botany Bay*.
- (3) In this section—

**jetty** means the Caltex Jetty at Kurnell.

### 2 Port Kembla

- (1) The pipeline running—
  - (a) from a point with latitude 34° 28.18' South, longitude 150° 54.20' East on No 6 Jetty, then
  - (b) south-westerly along No 6 Jetty to the inshore end of the jetty for approximately 360m, then
  - (c) northerly for approximately 100m, then
  - (d) westerly for approximately 350m to Old Port Road, then
  - (e) south-westerly along the northern side of Flinders Street to BlueScope Port Kembla.

- (2) The pipelines running—
  - (a) from the control valves located in the fenced enclosure south of the Saltwater Intake Channel latitude 34° 28.02' South, longitude 150° 53.91' East, then
  - (b) proceeding northerly for approximately 90m to the southern training wall at the entrance to the Inner Harbour, then
  - (c) north-westerly across the Inner Harbour entrance for approximately 270m to the Northern Breakwater to the diverter and valves located at latitude 34° 27.77' South, longitude 150° 54.09' East then—
    - (i) a pipeline running—
      - (A) generally easterly for approximately 470m to the inshore end of berth 201, then
      - (B) southerly along berth 201 for approximately 40m to the control valves located at the outer end of the berth, and
    - (ii) a pipeline running—
      - (A) generally westerly for 300m to latitude 34° 27.72' South, longitude 150° 53.92' East, then
      - (B) generally northerly to the southern end of berth 101, then
      - (C) underground in a generally northerly direction to berth 102 and terminating at the compressor station at latitude 34° 27.26' South, longitude 150° 53.82' East.
- (3) The submarine portion of the pipelines is located across the entrance to the Inner Harbour, as shown by one line of symbols on a copy of *Naval Chart AUS 195 of Port Kembla and Wollongong with Approaches*.
- (4) The pipeline running—
  - (a) from the point with latitude 34° 28.45' South, longitude 150° 54.67' East on No 4 Jetty, then
  - (b) proceeding generally south-easterly for 25m, then
  - (c) generally southerly for approximately 220m to the inshore end of No 4 Jetty, then
  - (d) generally southerly for approximately 180m to the IXOM Operations terminal.
- (5) The pipeline running—
  - (a) from the point with latitude 34° 27.5' South, longitude 150° 53.35' East on the western end of berth 112, then
  - (b) south-easterly in the services tunnel for 784m to the eastern end of berth 113, then
  - (c) south-easterly for 40m, then
  - (d) southerly for 420m above and below ground beside Christie Drive, then
  - (e) into the premises of Park Fuels and south-easterly to the control valve.
- (6) The pipeline running—
  - (a) from the point with latitude 34° 27.35' South, longitude 150° 53.15' East on the northern end of the berth 110 dolphin, then
  - (b) south-south-easterly for 12m to the southern side of the bridge connecting the dolphin to the shore, then
  - (c) south-westerly for 46m to the shoreline end of the bridge.
- (7) In this section—

**No 4 Jetty** means No 4 Jetty, Outer Harbour, Port Kembla, as shown on a copy of *Naval Chart AUS 195 of Port Kembla and Wollongong with Approaches*.

**No 6 Jetty** means No 6 Jetty, Outer Harbour, Port Kembla as shown on a copy of *Naval Chart AUS 195 of Port Kembla and Wollongong with Approaches*.

### 3 Port of Newcastle

- (1) The pipeline running—
  - (a) from a manifold control valve at latitude 32° 54' 55.24" South, longitude 151° 46' 20.09" East in Dyke berth No 1, then
  - (b) via a pipe bridge 34m to the shore, then
  - (c) underground along Dyke Road for approximately 1,070m to Elizabeth Street, then
  - (d) generally westerly for approximately 710m until it enters the ATOM Terminal tank farm facility, then
  - (e) 360m to the terminal shipping manifold valve at latitude 32° 54' 19.94" South, longitude 151° 45' 38.34" East.
- (2) The pipeline running—
  - (a) from a control valve at latitude 32° 53' 14" South, longitude 151° 45' 26" East in Mayfield No 7 berth, then
  - (b) southerly over the wharf for approximately 31m to a pipe bridge, then
  - (c) southerly for 166m to an above ground control valve connected to the Stolthaven tank farm shipping manifold at latitude 32° 53' 20" South, longitude 151° 45' 25" East.
- (3) The pipeline running underground for 215m in a northerly direction from Kooragang berth 2 to Kooragang berth 2.5.
- (4) The pipeline running underground for 182m in a southerly direction from Kooragang berth 3 to Kooragang berth 2.5.
- (5) The pipeline—
  - (a) running underground from Kooragang berth 2.5 in an easterly direction to Heron Road, then
  - (b) along Heron Road in a southerly and then easterly direction to Greenleaf Road, then
  - (c) along Greenleaf Road in a northerly direction to a point adjacent to the Park Fuels facility, then
  - (d) easterly into the Park Fuels facility.

## Schedule 3 Reports

sections 45, 46 and 47

### 1 Submission of report

A report must be made by the quickest means available and conveyed to all of the following—

- (a) AMSA,
- (b) TfNSW,
- (c) the Port Authority of New South Wales.

### 2 Content of report—all reports

A report must commence with the code “POLREP” and include—

- (a) the following preliminary details—
  - (i) the name of the person reporting the incident,
  - (ii) the date and time of incident expressed in Co-ordinated universal time, and
- (b) the following details for the ship—
  - (i) the name of the ship,
  - (ii) the IMO number of the ship,
  - (iii) the means of radio communication with the ship including radio stations and frequencies used by the ship,
  - (iv) the call sign of the ship, or the ship station ID,
  - (v) the size of the ship, including length, breadth and tonnage,
  - (vi) the type of ship,
  - (vii) the flag under which the ship operates, and
- (c) the following details for the ship’s owner and the ship’s representative—
  - (i) name,
  - (ii) address,
  - (iii) telephone, facsimile and telex number,
  - (iv) email address, and
- (d) the position of the discharge, and
- (e) the following details about the position of the ship—
  - (i) either the position, using latitude and longitude, or the position, using true bearing and distance, of the ship,
  - (ii) the true course of the ship,
  - (iii) the speed of the ship, expressed in knots and tenths of a knot as a 3 digit number,
  - (iv) route information for the ship, including its intended track, and
- (f) the following details about the condition of the ship—
  - (i) a summary of the structural and mechanical condition of the ship,
  - (ii) details of all defects, damage and other deficiencies affecting the condition of the ship,
  - (iii) an assessment of the ability to transfer cargo, ballast and fuel to or from the ship, and

- (g) a description of the prevailing weather and sea conditions, including the following—
  - (i) wind force and direction,
  - (ii) tidal and current details, and
- (h) the following details of remedial action being taken or requested—
  - (i) a description of the action being taken to address the discharge or potential discharge,
  - (ii) a description of the action being taken to address the movement of the ship,
  - (iii) a description of the assistance or salvage efforts that have been requested or that have been provided by others.

### **3 Additional content—report about reportable transfer incident**

A report about a reportable transfer operation incident must include the following details of the owner or agent of the place on land, equipment or purpose-built pipeline involved in the incident—

- (a) name,
- (b) address,
- (c) telephone, facsimile and telex number,
- (d) email address.

### **4 Additional content—report about discharge of oil**

A report about an actual or probable discharge of oil must include the following—

- (a) the type of oil involved in the actual or probable discharge,
- (b) an estimate of the quantity of oil involved in the discharge or probable discharge,
- (c) for an actual discharge—
  - (i) whether the discharge is continuing, and
  - (ii) whether the discharged oil floated or sank, and
  - (iii) the cause of the discharge, and
  - (iv) an estimate of the trajectory of the discharged oil, giving weather conditions, if known, and
  - (v) an estimate of the sea surface area covered by the discharged oil.

### **5 Additional content—report about discharge of noxious liquid substances**

- (1) A report about an actual or probable discharge of a noxious liquid substance must include the following details of each noxious liquid substance involved—
  - (a) the correct technical name,
  - (b) the pollution category,
  - (c) the UN number,
  - (d) the name of the—
    - (i) manufacturer, or
    - (ii) consignor, or
    - (iii) consignee,
  - (e) the estimated quantity discharged,
  - (f) for an actual discharge—

- (i) whether the discharge is continuing, and
  - (ii) whether the discharged substance floated or sank, and
  - (iii) the cause of the discharge, and
  - (iv) an estimate of the trajectory of the discharged substance, giving weather conditions, if known, and
  - (v) an estimate of the sea surface area covered by the discharged substance.
- (2) In this section—
- pollution category*** means the following categories as defined in MARPOL, Annex II, regulation 6, paragraph 1—
- (a) Category X,
  - (b) Category Y,
  - (c) Category Z.

## **6 Additional content—report about discharge of packaged harmful substances**

A report about an actual or probable discharge of a packaged harmful substance must include the following details of each packaged harmful substance involved—

- (a) the correct technical name,
- (b) the UN number,
- (c) the IMO hazard class,
- (d) the name of the—
  - (i) manufacturer, or
  - (ii) consignor, or
  - (iii) consignee,
- (e) the estimated quantity and condition,
- (f) the type of package,
- (g) the package identification marks,
- (h) for the actual or probable discharge of a cargo transportation unit—
  - (i) the type of cargo transportation unit discharged, for example portable tank, tank vehicle, vehicle container or freight container, and
  - (ii) the official registration marks and identification number of the cargo transport unit,
- (i) for an actual discharge—
  - (i) whether the discharge is continuing, and
  - (ii) whether the discharged substance floated or sank, and
  - (iii) the cause of the discharge, and
  - (iv) an estimate of the trajectory of the discharged substance.

## Schedule 4 Fees

section 54

### 1 Fees payable under the Act

Provision of Act	Matter	Fee
section 121(1)(b)	Depositing an oil record book with a prescribed officer	\$40
section 132(1)(b)	Depositing a cargo record book with a prescribed officer	\$40
section 145(1)(b)	Depositing a garbage record book with a prescribed officer	\$40
section 195	Preparation and giving of marine pollution clean-up notice	\$466
section 200	Preparation and giving of marine pollution prevention notice	\$466
section 202C	Preparation and giving of marine pollution removal notice	\$466

### 2 Fees payable under this regulation

Provision of regulation	Matter	Fee
section 28(2)(b)(ii)	Application for sewage pollution prevention certificate—	
	(a) for a commercial vessel approved for fewer than 50 people, or	\$495
	(b) for a commercial vessel approved for more than 49 and less than 151 people, or	\$577
	(c) for a commercial vessel approved for more than 150 people	\$660
section 30	Replacement of sewage pollution prevention certificate	\$40
section 38	Investigation fee, per hour	\$165
Schedule 5, section 3(3)	Review of plan of management, per hour	\$165

## Schedule 5 NSW sewage standards

section 17

### Part 1 Preliminary

#### 1 Definitions

In this schedule—

**approved plan of management** means a plan approved by TfNSW under section 3.

**baseline** means the baseline adjacent to the coast of the State, including the coast of an island forming part of the State, as for the time being determined under the *Seas and Submerged Lands Act 1973* of the Commonwealth, section 7(2)(b).

**partially smooth waters** has the same meaning as in the *Marine Safety Regulation 2016*.

**smooth waters** has the same meaning as in the *Marine Safety Regulation 2016*.

#### 2 Sewage discharge

Sewage must not be discharged unless it complies with all of the following standards—

- (a) the faecal coliform standard—the geometric mean of the faecal coliform count of a sample of effluent taken and tested must not be more than 250 faecal coliforms/100mL, using the most probable number method, as determined by a multiple tube fermentation analysis or an equivalent analytical procedure,
- (b) the suspended solids standard—
  - (i) if testing is carried out on shore—the geometric mean of the total suspended solids content of a sample of effluent taken and tested must not be more than 50mg/L, or
  - (ii) if testing is carried out on board a vessel—the geometric mean of the total suspended solids content of the samples of effluent taken and tested must not be more than 100mg/L above the suspended solids content of ambient water used for flushing purposes,
- (c) the biochemical oxygen demand method standard—the geometric mean of 5-day biochemical oxygen demand of a sample of effluent taken and tested during a 5-day period must not be more than 50mg/L.

#### 3 Approved plan of management

- (1) The owner of a vessel may apply to TfNSW for approval of a plan for the management of sewage from a vessel.
- (2) A plan submitted for approval must—
  - (a) be in a form approved by TfNSW, and
  - (b) describe the proposed operation of the vessel, and
  - (c) indicate the maximum number of persons likely to be on board the vessel, and
  - (d) specify the waters in which the vessel is proposed to operate, and
  - (e) include a schedule for the flushing of a holding tank.
- (3) TfNSW may require the owner of a vessel to pay the processing fee set out in Schedule 4, section 2 for each hour spent reviewing a plan of management submitted for approval.
- (4) TfNSW may—

- (a) approve a plan of management—
    - (i) as submitted by the owner of the vessel, or
    - (ii) with the additional provisions TfNSW considers appropriate following consultation with the owner of the vessel, or
    - (iii) subject to conditions, or
  - (b) refuse to approve a plan of management.
- (5) TfNSW must refuse to approve a plan of management if the processing fee required under subsection (3) is not paid.
- (6) TfNSW may, by written notice given to the owner of a vessel—
- (a) vary an approved plan of management for the vessel, or
  - (b) revoke the approval of an approved plan of management for the vessel.
- (7) A vessel must not be operated contrary to an approved plan of management.

## Part 2 Sewage treatment

### 4 Sewage treatment plant

- (1) The sewage treatment plant on a vessel operating in State waters must be—
- (a) tested and certified, and
  - (b) installed in accordance with the manufacturer's instructions, and
  - (c) maintained in good operating condition in accordance with the manufacturer's specifications, and
  - (d) operated so as to not exceed its maximum treatment capacity as specified by the manufacturer.
- (2) In this section—  
*tested and certified* means tested and certified by an authority certified by the National Association of Testing Authorities as being competent to test and certify on-board sewage treatment systems.

### 5 Plan of management

A commercial vessel with a sewage treatment plant must have an approved plan of management for the vessel.

## Part 3 Holding tanks

### 6 Application

This part applies to commercial vessels.

### 7 Management of sewage

- (1) A vessel to which this part applies must have at least 1 toilet.
- (2) All toilets on a vessel to which this part applies must be—
- (a) properly connected to a holding tank, or
  - (b) if it is not structurally possible to install a holding tank on the vessel in accordance with this schedule—managed in accordance with an approved plan of management for the vessel.

## 8 Design and construction of holding tanks

- (1) A holding tank must be designed and constructed—
  - (a) to be capable of operation—
    - (i) when the vessel is heeled—
      - (A) for a monohull sailing vessel—20 degrees to either side, or
      - (B) otherwise—7 degrees to either side, and
    - (ii) when trimmed 10 degrees by bow or stern, and
  - (b) to prevent the escape of toilet waste under all conditions of heel or trim likely to be experienced during the operation of the vessel, and
  - (c) to prevent back-siphoning, and
  - (d) with a smooth uninterrupted interior surface free from projections, and
  - (e) using materials that are resistant to the effects of the following—
    - (i) toilet water, fresh water and salt water,
    - (ii) the marine environment,
    - (iii) disinfectants, deodorants, cleaning agents and other chemical compounds in solid, liquid or gaseous form,
    - (iv) toxic or explosive substances likely to be generated in the operation of the holding tank, and
  - (f) using materials that are chemically and galvanically compatible, and
  - (g) to incorporate a gauge, sensor or other method to alert the master when the tank is more than 75% full.
- (2) A holding tank must also—
  - (a) be constructed with a sloping bottom designed for self-cleansing, or
  - (b) be flushed and operated in accordance with—
    - (i) an approved plan of management that includes a schedule for the periodic flushing of the tank, or
    - (ii) the safety management system for the vessel required by the *Marine Safety (Domestic Commercial Vessel) National Law* as set out in the schedule to the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* of the Commonwealth, section 12.

## 9 Minimum capacity of holding tanks

- (1) The minimum capacity of a holding tank on a commercial vessel that is a houseboat must be—
  - (a) if the vessel has an efficient flush system—
    - (i) for a vessel with 6 or less berths—180L, or
    - (ii) for a vessel with more than 6 berths—360L, or
  - (b) otherwise—
    - (i) for a vessel with 6 or less berths—360L, or
    - (ii) for a vessel with more than 6 berths—720L.
- (2) The minimum capacity of a holding tank on a commercial vessel, other than a houseboat, must be—
  - (a) for a vessel that is not certified to carry berthed passengers—
    - (i) if the vessel has an efficient flush system—
      - (A) for a vessel certified to carry 12 persons or fewer—60L, or

- (B) for a vessel certified to carry more than 12 persons—60L plus an extra 3.5L for each additional person, or
    - (ii) otherwise—
      - (A) for a vessel certified to carry 12 persons or fewer—120L, or
      - (B) for a vessel certified to carry more than 12 persons—120L plus an extra 7L for each additional person, or
  - (b) otherwise—
    - (i) if the vessel has an efficient flush system—
      - (A) for a vessel certified to carry 12 persons or fewer—120L, or
      - (B) for a vessel certified to carry more than 12 persons—120L plus an extra 7.5L for each additional person, or
    - (ii) otherwise—
      - (A) for a vessel certified to carry 12 persons or fewer—240L, or
      - (B) for a vessel certified to carry more than 12 persons—240L plus an extra 15L for each additional person.
- (3) In this section—  
*efficient flush system* means a flushing system that uses less than 1.5L of water per flush.

#### 10 Additional capacity—holding tanks used for greywater

The minimum capacity of a holding tank that is also used to collect and hold greywater must be the minimum capacity required by section 9 plus—

- (a) for each person the vessel is certified to carry—7L, and
- (b) for each berth on the vessel—8L.

#### 11 Testing of holding tanks

Before installation, a holding tank and its fittings must be tested for leakage by—

- (a) a hydrostatic test continuously applied to the tank for at least 30 minutes and representing a water column of the greater of—
  - (i) 2m, or
  - (ii) 1.5 times the height between the top of the holding tank and the lowest of the following—
    - (A) the top of the tank vent pipe,
    - (B) the lowest water seal on the vessel, and
- (b) a pump-out test with a positive displacement pump operating—
  - (i) at a minimum of 170L per minute, and
  - (ii) for at least 30 seconds after the tank is emptied.

#### 12 Installation of holding tanks

- (1) A holding tank must be—
  - (a) securely fastened in place on the vessel by means other than connected piping, and
  - (b) positioned so that—
    - (i) fittings and openings are accessible for maintenance and cleaning, and
    - (ii) there is no common boundary with a potable water tank.
- (2) Each inlet connection to a holding tank—

- (a) must enter the top of the tank or as close to the top of the tank as practicable, and
  - (b) must not reduce in diameter in the direction of flow.
- (3) A holding tank must have an outlet pipe or discharge connection—
- (a) with a nominal bore of at least 40mm, and
  - (b) fitted so that after discharge of the tank contents, the depth of waste remaining in the tank is no more than 40mm, and
  - (c) with an upper end coupling—
    - (i) rigidly attached to the vessel, and
    - (ii) exposed on, or accessible from, the deck of the vessel, and
    - (iii) fitted with the female side of an approved quick coupling device of 40mm nominal bore and covered by a removable gas-tight cover capable of protecting the coupling seal, and
  - (d) that may be used as the flushing water inlet for the tank.
- (4) Unless otherwise specified in an approved plan of management, a holding tank must have a vent pipe as follows—
- (a) with a nominal bore of at least—
    - (i) for a holding tank of 400L or less—19mm, or
    - (ii) for a holding tank of more than 400L—38mm,
  - (b) fitted to the top of the holding tank,
  - (c) extending outside the vessel to a point that is at least 300mm higher than the highest toilet seat pan on the vessel,
  - (d) laid out to ensure overflow from the tank can easily return to the tank and does not become trapped,
  - (e) with fittings or filters providing a flow area of not less than 75% of the inside diameter of the pipe,
  - (f) tested to the same standard as the holding tank.
- (5) All hoses and pipes connected to a holding tank must be securely fastened to prevent damage caused by vibration or abrasion.

### **13 Overboard discharge pipe not to be fitted to certain vessels**

After the commencement of this section, a holding tank with an overboard discharge pipe must not be installed on a vessel approved to operate only—

- (a) in smooth or partially smooth waters, or
- (b) up to 12 nautical miles seaward of the coast or baseline.

### **14 Vessels fitted with overboard discharge pipe**

If a vessel is fitted with a holding tank and an overboard discharge pipe, the discharge pipe must—

- (a) incorporate the following—
  - (i) an effective method to isolate the discharge,
  - (ii) a locking method that prevents tampering, and
- (b) be isolated and locked whenever the vessel is operated in smooth or partially smooth waters or within 12 nautical miles seaward of the coast or baseline.

### **15 Certification of holding tank installation**

- (1) Before a vessel to which this part applies is used for a commercial purpose, the owner of the vessel must obtain 1 or more written reports prepared by suitably qualified persons certifying the following—
  - (a) the holding tank complies with the requirements of sections 8–12,
  - (b) the stability of the vessel has not been, and is unlikely to be, affected adversely in a material way by the installation and intended use of the holding tank.
- (2) A copy of a report must be given to TfNSW.
- (3) In this section—

*suitably qualified person* includes the following—

  - (a) a naval architect,
  - (b) a marine surveyor, accredited by AMSA to conduct surveys of vessels,
  - (c) an organisation appointed by AMSA to undertake plan approval, survey and accreditation functions,
  - (d) for a certification under subsection (1)(a)—the manufacturer of the holding tank.

### **16 Maintenance and inspection of holding tanks**

- (1) A holding tank, including pipes and fittings, and each toilet connected to the holding tank must be maintained in good working condition.
- (2) A holding tank must have an accessible inspection opening—
  - (a) located in the top of the tank, and
  - (b) of at least 75mm in diameter, and
  - (c) fitted with a removable gas-tight cover.
- (3) A holding tank and its fittings, other than the vent pipe, must, when all gas-tight covers are secured in position, be leak tight under normal operating conditions.
- (4) Regular internal cleaning and flushing of a holding tank must be undertaken—
  - (a) as part of the vessel’s routine operating procedure, and
  - (b) using cleaning agents and disinfectants specified by the manufacturer of the tank.

### **17 Modification or removal of holding tanks**

- (1) A holding tank must not be modified without the written approval of TfNSW.
- (2) A holding tank must not be removed from a vessel without the written approval of TfNSW.

## Schedule 6 Installation of greywater tanks

section 41

### 1 Requirement for greywater tanks

An item or appliance that generates greywater must be connected to—

- (a) a greywater tank, or
- (b) a sewage system fitted with a suitable grease trap or arrestor.

### 2 Design and construction of greywater tanks

For a greywater tank, all fittings and pipes connected to the tank must—

- (a) be made from 1 or more of the following materials—
  - (i) stainless steel,
  - (ii) polyester fibreglass,
  - (iii) polyvinyl chloride,
  - (iv) another corrosion resistant material, and
- (b) be protected externally by a coating, and
- (c) be protected internally by—
  - (i) polyester fibreglass, or
  - (ii) rubber, or
  - (iii) another continuous liner.

### 3 Maintenance of greywater tanks

A greywater tank, including pipes and fittings connected to the tank, must be maintained in good working condition.

## Schedule 7 Dictionary

section 3

*2012 Guidelines*, for Part 5—see section 17.

*AMSA* means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990* of the Commonwealth.

*approved plan of management*, for Schedule 5—see Schedule 5, section 1.

*aquaculture*, for Part 5—see section 17.

*authorised officer* has the same meaning as in the *Marine Safety Act 1998*.

*Class 1 vessel* has the same meaning as in *Marine Order 504 (Certificates of operation and operation requirements — national law) 2018* of the Commonwealth.

*Class 2 vessel* has the same meaning as in *Marine Order 504 (Certificates of operation and operation requirements — national law) 2018* of the Commonwealth.

*Class 3 vessel* has the same meaning as in *Marine Order 504 (Certificates of operation and operation requirements — national law) 2018* of the Commonwealth.

*Class 4 vessel* has the same meaning as in *Marine Order 504 (Certificates of operation and operation requirements — national law) 2018* of the Commonwealth.

*commercial vessel* has the same meaning as in the *Marine Safety Act 1998*.

*Co-ordinated universal time* has the same meaning as in the *Standard Time Act 1987*.

*discharge* includes deposit.

*environment protection licence* has the same meaning as in the *Protection of the Environment Operations Act 1997*.

*greywater* means the following waste water from a vessel—

- (a) waste water from a galley,
- (b) waste water from a bath, sink or shower,
- (c) waste water from a dishwasher or clothes washing machine,
- (d) other waste water not including waste water from a toilet.

*greywater tank* means a container or receptacle designed to receive and hold greywater.

*harmful substance* has the same meaning as in MARPOL, Annex III, regulation 1.

*holding tank* means a container on a vessel designed and constructed to receive waste directly from a toilet on the vessel.

*IMO* means the International Maritime Organization.

*noxious liquid substance* has the same meaning as in MARPOL, Annex II, regulation 1.

*NSW sewage standards* means the standards set out in Schedule 5.

*oil* has the same meaning as in MARPOL, Annex I, regulation 1.

*oily mixture* has the same meaning as in MARPOL, Annex I, regulation 1.

*owner*, of a vessel, has the same meaning as in the *Marine Safety Act 1998*.

*pollutant*, for Part 7—see section 44.

*reportable transfer operation incident*, for Part 7—see section 44.

*responsible person*, for a ship, for Part 7—see section 44.

*sewage pollution prevention certificate* means a certificate issued under Part 5, Division 3.

*sewage system* has the same meaning as in the Act, section 55A.

*TfNSW* means Transport for NSW constituted under the *Transport Administration Act 1988*.

*the Act* means the *Marine Pollution Act 2012*.

*toilet* includes a urinal.

***treated sewage*** means sewage complying with all standards set out in Schedule 5, section 2.

***untreated sewage*** means all sewage other than treated sewage.

***waste collection facility***, for Part 5—see section 17.