



New South Wales

Marine Pollution Amendment (Review) Bill 2020

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to amend the *Marine Pollution Act 2012* (*the Act*) to—

- (a) address recommendations of the 2019 statutory review of the *Marine Pollution Act 2012*, and
- (b) ensure consistency between the Act, the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth and the *International Convention for the Prevention of Pollution from Ships* (MARPOL), and
- (c) provide for enforcement powers about the maintenance of sewage pollution prevention equipment, and
- (d) provide for preventative action against marine pollution in relation to abandoned, derelict or out-of-commission vessels, and
- (e) make other minor and consequential amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Marine Pollution Act 2012 No 5

Schedule 1.1[1] inserts the object of the Act.

Schedule 1.1[2] omits definitions and inserts the definitions of *garbage discharge requirements placard*, *Port Authority of New South Wales*, *State waters* and *transfer operation*.

The definition of *garbage management plan* replaces the definition of *shipboard garbage management plan* and is consistent with Annex V of MARPOL.

The definition of *Australian fishing vessel* is amended as a consequence of the repeal of the *Navigation Act 1912* of the Commonwealth, replaced by the *Navigation Act 2012* of the Commonwealth.

The definition of *recreational vessel* is inserted and is similar to the term used in the *Marine Safety Act 1998* and the *Navigation Act 2012* of the Commonwealth.

Schedule 1.1[3] makes a minor editorial amendment.

Schedule 1.1[4] updates a reference as a consequence of the repeal of the *Navigation Act 1912* of the Commonwealth.

Schedule 1.1[5] removes a reference to a pleasure vessel to apply the Act to all vessels.

Schedule 1.1[6] omits the definition of *survey authority* and is a consequential amendment.

Schedule 1.1[7] clarifies the application of the definition of *uncategorised noxious liquid substance*.

Schedule 1.1[8] inserts a definition of *transfer operation* to clarify that a transfer operation does not include the transfer of oil cargo at sea between oil tankers with a gross tonnage of 150 or more, to which Chapter 8 of MARPOL Annex I applies. This amendment is to avoid potential inconsistency with MARPOL Annex I.

The amendment also provides for proposed section 5B, which clarifies that a reference to the term “certified to carry” includes certification by way of an Australian Builders Plate to determine the carrying capacity of particular ships that may be issued an Australian Builders Plate.

Schedule 1.1[9] makes amendments to provide for when a ship is taken to be proceeding on a voyage under the Act.

Schedule 1.1[10] makes a consequential amendment due to the change to the definition of Tonnage Measurement Convention made by Schedule 1.1[11].

Schedule 1.1[11] updates a definition to refer to the term used in the *Navigation Act 2012* of the Commonwealth to provide consistency with the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth.

Schedule 1.1[12] inserts a note to clarify the drafting practice of referring to provisions of MARPOL in editor’s notes in this Act.

Schedule 1.1[13] makes a consequential amendment to remove a reference to section 171, which is omitted by Schedule 1.1[69].

Schedule 1.1[14] amends section 12(2) to provide that if a discharge of a marine pollutant includes garbage, proposed section 66A of the Act should be applied.

Schedule 1.1[15] makes a consequential amendment to remove a reference to the discharge of garbage, due to the changes made by proposed section 66A of the Act.

Schedule 1.1[16] inserts a new subsection to provide that if a person is liable to prosecution for an offence under this Act because a discharge of a marine pollutant that occurs outside State waters and enters State waters is taken to be a discharge into State waters of the marine pollutant under section 13, the person is not liable to prosecution for an offence in particular circumstances. The circumstances that determine the person is not liable to prosecution are that a provision of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth, specified in the subsection, applies to the discharge.

Schedule 1.1[17] updates the references in relation to the meaning of dumping, to refer to the 1996 Protocol to the *International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972*. The note is also amended to update the definition as defined in the 1996 Protocol, as in force for Australia from time to time.

The amendment also inserts a definition for the section of *relevant harmful substances* to align with Article 2 of the *International Convention for the Prevention of Pollution from Ships 1973*.

Schedule 1.1[18] and [19] removes references to special areas as there are no special areas relevant to the application of the Act.

Schedule 1.1[20] removes a defence that applies to ships within special areas as there are no special areas relevant to the application of the Act.

Schedule 1.1[21] updates the offences regarding the carrying of uncategorised noxious liquid substances to cover the carrying of a mixture that contains an uncategorised noxious liquid substance.

Schedule 1.1[22] omits sections 35 to 39 of the Act, as the discharges apply to an area that is not State waters. The defence is made available by operation of proposed section 13(3).

Schedule 1.1[23] makes a consequential amendment because of the insertion of a regulation-making power into section 53.

Schedule 1.1[24] inserts a regulation-making power in relation to an offence for the discharge or deposit of untreated sewage into State waters from vessels, other than large ships.

Schedule 1.1[25] inserts proposed section 55A, a new offence for having a defective, altered or modified sewage system, or part of a sewage system, on a particular vessel, that enables the discharge of sewage. The proposed section provides a penalty for large ships, and a regulation-making power for the penalty for a ship that is prescribed by the regulations for the purposes of the section.

The provision also inserts proposed section 55B, which provides for a regulation to create an offence for the discharge of treated sewage in a zone, prescribed by the regulations to be a no discharge zone.

Schedule 1.1[26] omits section 58 of the Act to remove a defence that applies outside of 3 nautical miles from the nearest land, as waters beyond 3 nautical miles are outside of the State waters that the Act applies to.

Schedule 1.1[27] removes references to an inspector to instead rely on the definition of *certified* in section 3(1) of the Act. The amendment also omits a requirement for test results to be set out in a ship's certificate, to align with Annex IV of MARPOL.

Schedule 1.1[28] amends the operation of section 59(2) of the Act as a consequence of the proposed section 55B.

Schedule 1.1[29] and [30] insert notes to confirm that the definitions in section 4, and Annex V of MARPOL, apply to Part 7 of the Act and include a definition of *fishing gear*, as defined by Annex V of MARPOL.

Schedule 1.1[31] amends the section to align with Annex V of MARPOL.

Schedule 1.1[32] and [33] amend section 65 of the Act to incorporate amendments to Annex V of MARPOL in relation to fishing gear.

Schedule 1.1[34] omits the defence in relation to certain dunnage, lining or packing materials that will float, as a consequence of amendments to Annex V of MARPOL. A defence is also inserted for the discharge of fishing gear from a ship for the protection of the marine environment, or for the safety of that ship or the ship's crew. The new defence is a consequence of amendments to Annex V of MARPOL.

The amendment also includes defence for the discharge of garbage that is mixed with or contaminated by other substances, if the more stringent requirements for the other substance is followed. This is a consequence of amendment to Annex V of MARPOL.

Schedule 1.1[35] omits section 74 of the Act which required written permission to conduct a transfer operation at night.

Schedule 1.1[36] makes a consequential amendment due to the omission of sections by Schedule 1.1[22].

Schedule 1.1[37] amends the definition of reportable incident to align with Article II(1)(c) of Protocol I of MARPOL.

Schedule 1.1[38] amends section 105 of the Act to require a procedures and arrangements manual to be in the form set out in Appendix IV to Annex II of MARPOL.

Schedule 1.1[39] and [40] amend references in the Act to shipboard garbage management plans to refer to garbage management plans, to align with Annex V of MARPOL.

Schedule 1.1[41] and [42] amend section 107 of the Act to apply to prescribed ships, as defined by the section. This is a consequence of amendment to Annex V of MARPOL.

Schedule 1.1[43] amends section 108 of the Act to make provision for ship operators to practice minimising garbage on board. This is a consequence of amendments to Annex V of MARPOL.

Schedule 1.1[44], [47] and [48] update references to “disposal” to refer to “discharge” to align with MARPOL.

Schedule 1.1[45] and [46] amend section 110 to extend the requirement for placards relating to garbage discharge requirements on fixed or floating platforms. This is a consequence of amendments to Annex V of MARPOL.

Schedule 1.1[49] amends the definition of *prescribed ship* in relation to the carriage of an oil record book, to align the provision with Annex I of MARPOL.

Schedule 1.1[50], [51], [53], [54], [58] and [59] provide that an oil record book, a cargo record book or a garbage record book may be kept electronically if kept in the way approved by the maritime authority of the country whose flag the ship is entitled to fly, and the way a signature may be made on an electronic record book. This is a consequence of amendments to Annexes I, II and V of MARPOL.

Schedule 1.1[52], [55] and [60] amend the requirement to provide that an oil record book, a cargo record book and a garbage record book are to be retained for a period of 3 years, consistent with Annexes I, II and V of MARPOL.

Schedule 1.1[56] extends the circumstances that a master and owner of a ship do not commit the offence of failing to carry a garbage record book to also apply to a ship that is a recreational vessel with a gross tonnage of less than 400 that is not on an overseas voyage. This aligns with Annex IV of MARPOL.

Schedule 1.1[57] amends section 137 to clarify the classes of ship that may apply to the Minister to waive the requirement to carry a garbage record book. This is a consequence of amendments to Annex V of MARPOL.

Schedule 1.1[61] amends section 148 to remove references to regulations of Annex III of MARPOL.

Schedule 1.1[62] omits section 149 of the Act as a consequence of the amendments to remove Part 12, Divisions 3–8 of the Act, proposed by Schedule 1.1[69].

Schedule 1.1[63] makes consequential amendments to the definition of *prescribed ship*, following the removal of the requirement for NSW construction certificates, and to reflect the application of the requirement in Annex I of MARPOL. The definition *ship construction certificate* is also amended to reflect the replacement of the *Navigation Act 1912* of the

Commonwealth by the *Navigation Act 2012* of the Commonwealth, the commencement of the *Marine Safety (Domestic Commercial Vessels) National Law Act 2012* of the Commonwealth, and the removal of the requirement for a NSW construction certificate.

Schedule 1.1[64] amends the definition of *prescribed ship* to reflect Annex II of MARPOL. This is a consequence of the amendments to remove the requirement for a NSW chemical tanker construction certificate. The definition of *chemical tanker construction certificate* is also amended to reflect the replacement of the *Navigation Act 1912* of the Commonwealth by the *Navigation Act 2012* of the Commonwealth and the removal of the requirement for NSW construction certificates.

Schedule 1.1[65] and [66] make amendments to the offences of a ship beginning a voyage unless there is a sewage pollution prevention certificate in force in relation to the ship that complies with Annex IV of MARPOL or the conditions prescribed by the regulations.

Schedule 1.1[67] and [68] provide for the type of ships and classes of ships that the requirement for a sewage pollution prevention certificate applies to, including ships prescribed by the regulations for the purposes of the section. The definition of *sewage pollution prevention certificate* is amended as a consequence of the replacement of the *Navigation Act 1912* of the Commonwealth by the *Navigation Act 2012* of the Commonwealth.

Schedule 1.1[69] omits Part 12, Divisions 3–8, containing the requirement for NSW construction certificates and NSW chemical tanker construction certificates.

Schedule 1.1[70] updates a reference as a consequence of amendments to Annex V of MARPOL.

Schedule 1.1[71] provides that the Minister may provide, arrange the provision of, or direct the provision of reception facilities for exhaust gas cleaning residues from an exhaust gas cleaning system.

Schedule 1.1[72] provides that exhaust gas cleaning residues from an exhaust gas cleaning system are a *prescribed waste*, for the definition of *reception facility*.

Schedule 1.1[73] extends the circumstances that the Minister may take preventative or clean-up action, to include if the Minister is of the opinion that marine pollutants are, or have been carried, on a vessel that has been abandoned, is out-of-commission or derelict.

Schedule 1.1[74] provides that an inspector, officer, employee or agent of the Minister may do all things necessary for the purpose of causing a marine pollution removal notice to be complied with.

Schedule 1.1[75] extends the definition of *preventative or clean-up action* to include action to prevent, minimise, remove, disperse or destroy a marine pollutant or prevent, minimise or mitigate any pollution likely to occur from a vessel that has been abandoned, is out-of-commission or derelict.

Schedule 1.1[76] makes consequential amendments to add the definitions of *marine pollution prevention notice* and *marine pollution removal notice* to the section.

Schedule 1.1[77] provides that the Minister may recover all costs and expenses incurred by the Minister from the owner of the vessel, in relation to action taken under Part 15 in relation to a vessel that has been abandoned, is out-of-commission or derelict.

Schedule 1.1[78] replaces the requirement for the Minister to establish an Oiled Wildlife Care Network with a requirement for the Minister to have an Oiled Wildlife Care Network as the network is already established.

Schedule 1.1[79] and [80] amend the definition of *marine pollution incident* for Part 16 to apply the Part to responding to a pollution incident whether or not the vessel has a particular certificate or is of a particular size.

Schedule 1.1[81] and [82] make consequential amendments to the Division to make provision for Division 4A, inserted by Schedule 1.1[84], and inserts the definition of *public authority* for the Part.

Schedule 1.1[83] omits the definition of *public authority*, which is inserted into section 190 to apply for the Part.

Schedule 1.1[84] inserts proposed Division 4A, to provide for the Minister to take preventative action for an abandoned, derelict or out-of-commission vessel, if marine pollutants are, or have been, carried on the vessel. The proposed Division includes an offence for failing to comply with a marine pollution removal notice. The Division provides for when the marine pollution removal notice, or a variation of the notice, operates, and creates a fee to enable the Minister to recover the administrative costs of preparing and giving marine pollution removal notices. A person who does not pay the fee, within the time provided for, is guilty of an offence.

Schedule 1.1[85] provides that the Minister may require a person given a marine pollution removal notice to pay all or any reasonable costs and expenses incurred by the Minister, as set out in section 205.

Schedule 1.1[86] provides that section 216 applies to the discharge of a noxious liquid substance into State waters, regardless of whether the ship holds a chemical tanker construction certificate certifying the ship to carry noxious liquid substances in bulk.

Schedule 1.1[87] removes the requirement that section 216 applies to the discharge of sewage into State waters from a large ship only.

Schedule 1.1[88] and [89] remove the requirement that the Minister, for the purpose of detaining the ship, have reasonable cause to believe that the ship will depart from State waters before the completion of the Minister's investigation into the source of a discharge.

Schedule 1.1[90] provides that a master of a ship may be required to produce a record book required to be carried by the regulations or by the *Marine Safety Act 1998* or any other books, documents or records relating to the ship or its cargo, carried in the ship.

Schedule 1.1[91] clarifies the scope of the regulation-making power in relation to the discharge of sewage, waste management and directions that may be given in relation to waste.

Schedule 1.1[92] inserts a regulation-making power for the categories of vessels required to have sewage pollution prevention certificates to be prescribed by regulation and for the administration of the certificates.

Schedule 1.1[93] updates a reference in the definition of *approved person* to refer to the Port Authority of New South Wales instead of the Newcastle Port Corporation. This aligns with the references to that Corporation in the *Marine Safety Act 1998* and the *Ports and Maritime Administration Act 1995*.

Schedule 1.1[94] omits a savings and transitional provision as a consequence of the omission of section 74 by Schedule 1.1[35].

Schedule 1.1[95] omits a savings and transitional provision that provided for the continued operation of ship construction certificates and chemical tanker construction certificates, as a consequence of amendments to section 150 and 151 of the Act.

Schedule 1.2[1]–[228] remove references that were contained in brackets next to the section headings and transfers the references to editor's notes, consistent with updated drafting practices. The references in the editor's notes are also updated to ensure consistency with MARPOL.

Schedule 2 Amendment of other instruments

Schedules 2.1 and 2.2 make consequential amendments to the *Fire and Rescue NSW Act 1989* and the *Fire Brigades Regulation 2014* to update references from State waters to refer to prescribed waters. The amendments continue the existing operation of the law under the *Fire and Rescue NSW Act 1989*, instead of adopting the amended definition of State waters under the *Marine Pollution Act 2012*.

Schedule 2.3 makes consequential amendments to the *Marine Pollution Regulation 2014*, including updating the references in Schedules 6 and 7 of the Regulation to incorporate changes to Marine Orders adopted and modified under the Act.

Schedule 2.4 makes a consequential amendment to a note in the *Marine Safety Act 1998* that refers to State waters, and updates the definition to align with the definition in the *Marine Pollution Act 2012*, consequent on the amendments made to the Act by Schedule 1.1[2].

Schedule 2.5 amends the penalty notice offence schedule in the *Marine Safety Regulation 2016* to remove references to sections omitted and includes in the Schedule offences inserted by Schedule 1.1[25] and [84].



New South Wales

Marine Pollution Amendment (Review) Bill 2020

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New South Wales

Marine Pollution Amendment (Review) Bill 2020

No. _____, 2020

A Bill for

An Act to amend the *Marine Pollution Act 2012* to make miscellaneous amendments resulting from a review of the *Marine Pollution Act 2012*; and for related purposes.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Marine Pollution Amendment (Review) Act 2020*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by this section.
- (2) Schedules 1.1[6], [65]–[69] and [92] and 2.5[2] commence on a day or days to be appointed by proclamation.

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Schedule 1	Amendment of Marine Pollution Act 2012 No 5	1
1.1	General amendments	2
[1]	Section 2A	3
	Insert after section 2—	4
2A	Object of Act	5
(1)	The object of this Act is to enhance the protection of New South Wales State waters from marine pollution from vessels.	6 7
(2)	This object is to be achieved primarily by giving effect to the relevant provisions of the following Annexes of MARPOL—	8 9
	• Annex I, which deals with prevention of pollution by oil,	10
	• Annex II, which deals with control of pollution by noxious liquid substances in bulk,	11 12
	• Annex III, which deals with prevention of pollution by harmful substances in packaged form,	13 14
	• Annex IV, which deals with prevention of pollution by sewage,	15
	• Annex V, which deals with prevention of pollution by garbage.	16
(3)	The object is also to be achieved by providing—	17
(a)	an approach to protecting New South Wales State waters from ship-sourced pollutants that is complementary to the approach of the Commonwealth, and	18 19 20
(b)	an effective framework for the protection of New South Wales State waters from pollution from vessels, and	21 22
(c)	for the investigation of marine pollution incidents and for appropriate action following a marine pollution incident, and	23 24
(d)	for the imposition of penalties on persons who pollute New South Wales State waters in contravention of this Act.	25 26
[2]	Section 3 Definitions	27
	Omit the definitions of <i>Australian fishing vessel</i> , <i>fishing vessel</i> , <i>garbage disposal requirements placard</i> , <i>inter-State voyage</i> , <i>intra-State voyage</i> , <i>NSW certificate</i> , <i>NSW chemical tanker construction certificate</i> , <i>NSW ship construction certificate</i> , <i>pleasure vessel</i> , <i>relevant provisions of MARPOL</i> , <i>shipboard garbage management plan</i> , <i>State waters</i> , <i>trading ship</i> and <i>transfer operation</i> .	28 29 30 31 32
	Insert in alphabetical order—	33
	<i>garbage discharge requirements placard</i> , in relation to a ship, means a placard required to be displayed on the ship by section 110.	34 35
	<i>garbage management plan</i> , in relation to a ship, means a plan required to be carried on board the ship by section 107.	36 37
	<i>Port Authority of New South Wales</i> means the Newcastle Port Corporation established under the <i>Ports and Maritime Administration Act 1995</i> .	38 39
	<i>recreational vessel</i> means a vessel used wholly for the purpose of recreational or sporting activities and not for hire or reward.	40 41
	<i>State waters</i> means—	42
(a)	coastal waters of the State, within the meaning of Part 10 of the <i>Interpretation Act 1987</i> , and	43 44

(b) waters within the limits of the State.	1
<i>transfer operation</i> —see section 5A.	2
[3] Section 3, definition of “large ship”, paragraphs (a) and (b)	3
Omit “tons” wherever occurring.	4
[4] Section 3, definition of “overseas voyage”	5
Omit “ <i>Navigation Act 1912</i> ”. Insert instead “ <i>Navigation Act 2012</i> ”.	6
[5] Section 3, definition of “ship”	7
Omit “but does not include a pleasure vessel.”.	8
[6] Section 3, definition of “survey authority”	9
Omit the definition.	10
[7] Section 3, definition of “uncategorised noxious liquid substance”	11
Omit “a noxious liquid”. Insert instead “a liquid”.	12
[8] Sections 5A and 5B	13
Insert after section 5—	14
5A Meaning of “transfer operation”	15
For the purposes of this Act, <i>transfer operation</i> —	16
(a) means an operation that is involved in the preparation for, or in the commencement of, carrying on or termination of, a transfer of oil or a noxious liquid substance or a combination of those substances, whether in bulk, packaged or another form, to or from a ship or a place on land, but	17 18 19 20 21
(b) does not include a transfer of oil cargo at sea between oil tankers with a gross tonnage of 150 or more, to which Chapter 8 of Annex I of MARPOL applies.	22 23 24
5B References to “certified to carry”	25
(1) A reference in this Act to a ship that is certified to carry a number of persons is taken to include a ship displaying, on an Australian Builders Plate, information about the maximum number of persons the ship may carry if the ship is fitted with an Australian Builders Plate containing the information.	26 27 28 29
(2) In this section—	30
<i>Australian Builders Plate</i> means a plate issued in accordance with the <i>National Standard for the Australian Builders Plate for Recreational Boats</i> developed by the National Marine Safety Committee, as in force from time to time.	31 32 33 34
[9] Section 6 Time when ship taken to be proceeding on voyage	35
Omit “the definitions of <i>inter-State voyage</i> , <i>intra-State voyage</i> and <i>overseas voyage</i> ”.	36
Insert instead “this Act”.	37
[10] Section 7 References to tonnage	38
Omit “Measurement” from the definition of <i>non-TMC ship</i> in section 7(2).	39

[11] Section 7(2)	1
Omit the definition of <i>Tonnage Measurement Convention</i> .	2
Insert instead—	3
<i>Tonnage Convention</i> has the same meaning as in the <i>Navigation Act 2012</i> of the Commonwealth.	4 5
[12] Section 8 Notes	6
Omit the note. Insert instead—	7
Note. To assist the reader, many provisions of this Act contain editor’s notes drawing attention to the provision of MARPOL that the provision of the Act gives effect to.	8 9
[13] Section 11 Detention of ships and holding of security over them: exclusion of matters from operation of Commonwealth Act	10 11
Omit “171,” from the definition of <i>compulsorily detained under this Act</i> in section 11(3).	12
[14] Section 12 Application of Act to mixtures of marine pollutants	13
Omit section 12(2). Insert instead—	14
(2) If a mixture that contains more than one marine pollutant is discharged into State waters—	15 16
(a) if one of the pollutants discharged is garbage—see section 66A, or	17
(b) otherwise—each of the applicable Parts in relation to each of the marine pollutants in the mixture applies in relation to the mixture.	18 19
[15] Section 12(4), definition of “applicable Part”, paragraph (d)	20
Omit paragraphs (d) and (e). Insert instead—	21
(d) in relation to sewage—Part 6.	22
[16] Section 13 Discharge outside State waters that enters State waters	23
Insert after section 13(2)—	24
(3) Despite subsections (1) and (2), a person is not liable to prosecution for an offence under this Act if—	25 26
(a) the discharge of a marine pollutant occurs and is taken to be a discharge of the marine pollutant into State waters by operation of this section, and	27 28 29
(b) a provision of the <i>Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i> of the Commonwealth applies to the discharge giving effect to the following regulations of MARPOL—	30 31 32
(i) for the discharge of oil or oily mixtures from the cargo area of an oil tanker—Regulation 34 of Annex I of MARPOL,	33 34
(ii) for the discharge of Category X substances—Regulations 13.2.1 and 13.6.1 of Annex II of MARPOL,	35 36
(iii) for the discharge of Category Y substances and Category Z substances from ships constructed on or after 1 January 2007—Regulations 13.2.1 and 13.7.1 of Annex II of MARPOL,	37 38 39
(iv) for the discharge of Category Z substances from ships constructed before 1 January 2007—Regulations 13.2.1 and 13.2.2 of Annex II of MARPOL,	40 41 42
(v) for the discharge of comminuted and disinfected sewage—Regulation 11.1.1 of Annex IV of MARPOL,	43 44

(vi)	for the discharge of sewage that is not comminuted or disinfected—Regulation 11.1.1 of Annex IV of MARPOL,	1 2
(vii)	for the discharge of comminuted or ground food waste—Regulation 4.1.1 of Annex V of MARPOL,	3 4
(viii)	for the discharge of food waste that is not comminuted or ground—Regulation 4.1.2 of Annex V of MARPOL,	5 6
(ix)	for the discharge of cargo residues that cannot be recovered using commonly available methods for unloading—Regulation 4.1.3 of Annex V of MARPOL,	7 8 9
(x)	for the discharge of animal carcasses—Regulation 4.1.4 of Annex V of MARPOL,	10 11
(xi)	for the discharge of cleaning agents or additives contained in cargo hold, deck and external surfaces wash water—Regulation 4.2 of Annex V of MARPOL,	12 13 14
(xii)	for the discharge of garbage from fixed or floating platforms or other ships when alongside or within 500 metres of a fixed or floating platform—Regulation 5 of Annex V of MARPOL.	15 16 17
[17]	Section 14	18
	Omit the section. Insert instead—	19
	14 Discharges to which Act does not apply	20
(1)	This Act does not apply to the following discharges—	21
(a)	the release of relevant harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources,	22 23 24
(b)	the release of relevant harmful substances for purposes of legitimate scientific research into pollution abatement or control,	25 26
(c)	dumping within the meaning of the 1996 Protocol to the <i>Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972</i> , done at London on 7 July 1996, as amended and in force for Australia from time to time.	27 28 29 30
	Note. The 1996 Protocol to the <i>Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972</i> defines dumping as—	31 32
(a)	any deliberate disposal into the sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea,	33 34
(b)	any deliberate disposal into the sea of vessels, aircraft, platforms or other man-made structures at sea,	35 36
(c)	any storage of wastes or other matter in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea,	37 38 39
(d)	any abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal.	40 41
	Under that Convention, dumping does not include—	42
(a)	the disposal into the sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or other man-made structures,	43 44 45 46 47 48 49
(b)	placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of the Protocol, and	50 51 52

	(c) abandonment in the sea of matter (e.g. cables, pipelines and marine research devices) placed for a purpose other than the mere disposal thereof.	1 2 3
(2)	In this section—	4
	<i>relevant harmful substances</i> —	5
(a)	means a substance which, if introduced into the sea, is liable to—	6
	(i) create hazards to human health, or	7
	(ii) harm living resources and marine life, or	8
	(iii) damage amenities, or	9
	(iv) interfere with other legitimate uses of the sea, and	10
(b)	includes a substance subject to control by MARPOL.	11
	Editor’s note. See Article 2 of the <i>International Convention for the Prevention of Pollution from Ships, 1973</i> .	12 13
[18]	Section 22, heading	14
	Omit “ tonnes or more and oil tankers not within special areas (Regs 15.2 and 15.8 of Annex I of MARPOL)” from the heading.	15 16
	Insert instead “ tons or more and oil tankers ”.	17
[19]	Section 22(a)	18
	Omit the paragraph.	19
[20]	Section 23 Defence for certain ships 400 tonnes or more and oil tankers within special areas	20 21
	Omit the section.	22
[21]	Sections 27 and 28	23
	Insert “, or a mixture that contains an uncategorised noxious liquid substance,” after “substance” wherever occurring.	24 25
[22]	Sections 35–39	26
	Omit the sections.	27
[23]	Section 53 Discharge of sewage into State waters from ship prohibited	28
	Omit “this section” from section 53(2). Insert instead “subsection (1)”.	29
[24]	Section 53(3)	30
	Insert after subsection (2)—	31
	(3) The regulations may make provision for an offence in relation to the discharge or deposit of untreated sewage from a vessel, other than a large ship.	32 33
[25]	Sections 55A and 55B	34
	Insert after section 55—	35
55A	Offence to have defective, altered or modified sewage systems	36
(1)	The master and the owner of a prescribed vessel in State waters are each guilty of an offence if a sewage system, or part of the sewage system, on the prescribed vessel is defective or has been altered or modified in a way that enables the discharge of sewage in contravention of this Part.	37 38 39 40
	Maximum penalty for a large ship—	41

(a)	for an individual—\$55,000, or	1
(b)	for a corporation—\$275,000,	2
	Maximum penalty for a ship prescribed by the regulations for the purposes of this section—an amount prescribed by the regulations.	3 4
(2)	In this section—	5
	<i>prescribed vessel</i> means—	6
(a)	a large ship, or	7
(b)	a ship prescribed by the regulations for the purposes of this section.	8
	<i>sewage system</i> , for a prescribed vessel, includes the following—	9
(a)	a holding tank to collect and store sewage,	10
(b)	a sewage treatment plant certified to meet the requirements—	11
(i)	of the regulations giving effect to Regulation 9.1.1 of Annex IV of MARPOL, or	12 13
(ii)	prescribed by the regulations,	14
(c)	portable tanks, including toilet cassettes, for discharge into a reception facility,	15 16
(d)	a comminuting and disinfecting system—	17
(i)	approved by orders made under the regulations, giving effect to Regulation 9.1.2 of Annex IV of MARPOL, or	18 19
(ii)	approved under the regulations.	20
55B	Offence to discharge treated sewage in no discharge zones for certain vessels	21
(1)	The regulations may create an offence for the discharge of treated sewage by a relevant vessel in a zone, prescribed by the regulations, for the purposes of this section (a <i>no discharge zone</i>).	22 23 24
(2)	In this section—	25
	<i>relevant vessel</i> means a vessel prescribed by regulations for the purposes of this section.	26 27
[26]	Section 58 Defence for discharge of comminuted and disinfected sewage not less than 3 nautical miles from the nearest land	28 29
	Omit the section.	30
[27]	Section 59 Defence of discharge of treated sewage	31
	Omit section 59(1)(a). Insert instead—	32
(a)	the sewage has been treated in a sewage treatment plant on the ship, being a plant that is certified to meet the requirements of the regulations giving effect to Regulation 9.1.1 of Annex IV of MARPOL,	33 34 35
[28]	Section 59(2) and (3)	36
	Omit section 59(2). Insert instead—	37
(2)	To remove any doubt, the defence under subsection (1) applies to the discharge of treated sewage in a no discharge zone.	38 39
(3)	In this section—	40
	<i>no discharge zone</i> has the same meaning as in section 55B(1).	41

[29] Part 7 Prevention of pollution by garbage	1
Insert after the heading to Part 7—	2
Note 1. See section 4 of this Act in relation to the words and expressions used in MARPOL.	3
Note 2. See also Annex V of MARPOL for the meaning of particular words and expressions used in this Part, including garbage .	4
	5
	6
[30] Part 7, Division 2, note	7
Insert after the heading to the Division—	8
Note. Annex V of MARPOL provides that fishing gear means any physical device or part thereof or combination of items that may be placed on or in the water or on the sea-bed with the intended purpose of capturing, or controlling for subsequent capture or harvesting, marine or fresh water organisms.	9
	10
	11
	12
[31] Section 64 Defence if discharge was to secure safety or save life	13
Insert “and the persons on board the ship” after “safety of a ship”.	14
[32] Section 65, heading	15
Omit “ nets and other materials (Reg 6 (c) of Annex V of MARPOL)” from the heading.	16
Insert instead “ fishing gear ”.	17
[33] Section 65	18
Omit “a synthetic fishing net, or synthetic material used in the repair of such a net, on”.	19
Insert instead “fishing gear from”.	20
[34] Sections 66 and 66A	21
Omit section 66. Insert instead—	22
66 Defence if discharge of fishing gear in particular circumstances	23
Division 1 does not apply to the discharge of fishing gear from a ship for—	24
(a) the protection of the marine environment, or	25
(b) the safety of the ship or the ship’s crew.	26
Editor’s note. See Reg 7.1.4 of Annex V of MARPOL.	27
66A Defence if discharge is of more stringent requirement	28
(1) Sections 63–66 do not apply to garbage that is mixed with, or contaminated by, other substances prohibited from discharge or having different discharge requirements (a garbage mixture).	29
	30
	31
(2) Division 1 does not apply to the discharge of a garbage mixture if the discharge is made in accordance with the more stringent requirements for the substances in the garbage mixture.	32
	33
	34
Editor’s note. See Reg 4.4 of Annex V of MARPOL.	35
[35] Section 74 Transfer of prescribed marine pollutant at night	36
Omit the section.	37
[36] Section 86 Meaning of “reportable incident”	38
Omit “sections 35–41” from paragraph (b) of the definition of reportable incident .	39
Insert instead “sections 40 and 41”.	40

[37]	Section 86, definition of “reportable incident”, paragraph (d)	1
	Omit “above that is carrying oil or a noxious liquid substance”. Insert instead “more”.	2
[38]	Section 105 Form and content of procedures and arrangements manual	3
	Omit “approved by the Minister” from section 105(b).	4
	Insert instead “set out in Appendix IV to Annex II of MARPOL”.	5
[39]	Part 10, Division 4, heading	6
	Omit “Shipboard garbage”. Insert instead “Garbage”.	7
[40]	Sections 107–109	8
	Omit “shipboard” wherever occurring.	9
[41]	Section 107	10
	Omit “large ship” wherever occurring. Insert instead “prescribed ship”.	11
[42]	Section 107(3)	12
	Insert after section 107(2)—	13
	(3) In this section—	14
	<i>prescribed ship</i> means a ship—	15
	(a) that has a gross tonnage of 100 or more, or	16
	(b) that has a gross tonnage of less than 100 and that is certified to carry more than 15 persons, or	17
	(c) that is a fixed or floating platform.	18
[43]	Section 108(2)(a)	20
	Insert “minimising,” after “procedures for”.	21
[44]	Part 10, Division 5, heading and sections 110–112	22
	Omit “disposal” wherever occurring. Insert instead “discharge”.	23
[45]	Section 110(1)	24
	Insert “, or a fixed or floating platform,” after “length”.	25
[46]	Section 110(2)(a)	26
	Omit the paragraph. Insert instead—	27
	(a) that—	28
	(i) the ship was of 12 metres or more in length and was in State waters, or	29
	(ii) the fixed or floating platform was in State waters, and	30
[47]	Section 111(a) and (b)	32
	Omit “disposed of” wherever occurring. Insert instead “discharged”.	33
[48]	Section 111(b)	34
	Omit “dispose of”. Insert instead “discharge”.	35

[49] Section 113 Requirement to carry an oil record book	1
Omit the definition of <i>prescribed ship</i> from section 113(3).	2
Insert instead—	3
<i>prescribed ship</i> means—	4
(a) an oil tanker that has a gross tonnage of 150 or more, or	5
(b) a ship that has a gross tonnage of 400 or more.	6
[50] Section 114 Form of oil record book	7
Insert before section 114(1)—	8
(1A) An oil record book may be kept electronically, in a way approved by the relevant national maritime authority of the country whose flag the ship is entitled to fly.	9 10 11
[51] Section 114(2)(b)	12
Omit the paragraph. Insert instead—	13
(b) a signature—	14
(i) for a record book kept electronically—on each group of electronic entries, or	15 16
(ii) otherwise—on each page of the record book.	17
Note. See the Guidelines for use of electronic record books under MARPOL, adopted by Resolution MEPC.312(74).	18 19
[52] Section 121 Oil record book to be retained	20
Omit “last entry was made in the book” from section 121(1).	21
Insert instead “book is required to be retained on the ship in accordance with section 120”.	22
[53] Section 125 Form of cargo record book	23
Insert before section 125(1)—	24
(1A) A cargo record book may be kept electronically, in a way approved by the relevant national maritime authority of the country whose flag the ship is entitled to fly.	25 26 27
[54] Section 125(2)(b)	28
Omit the paragraph. Insert instead—	29
(b) a signature—	30
(i) for a record book kept electronically—on each group of electronic entries, or	31 32
(ii) otherwise—on each page of the record book.	33
Note. See the Guidelines for use of electronic record books under MARPOL, adopted by Resolution MEPC.312(74).	34 35
[55] Section 132 Cargo record book to be retained for two years	36
Omit “last entry was made in the book” from section 132(1).	37
Insert instead “book is required to be retained on the ship in accordance with section 131”.	38
[56] Section 135 Requirement to carry garbage record book on board ship	39
Omit section 135(2). Insert instead—	40

(2)	However, the master and the owner of a ship do not commit an offence—	1
(a)	if the ship is the subject of a waiver in accordance with section 137, or	2
(b)	if the ship is a recreational vessel with a gross tonnage of less than 400 that is not on an overseas voyage.	3
[57]	Section 137	5
	Omit the section. Insert instead—	6
137	Minister may waive requirement to carry garbage record book	7
	The Minister may waive the requirement to carry a garbage record book—	8
(a)	on application in writing from the master or the owner of—	9
(i)	a ship that is certified to carry more than 15 persons, or	10
(ii)	a fixed or floating platform, and	11
(b)	if the application relates to a voyage by the ship of one hour or less in duration.	12
	Editor's note. See Reg 10.4 of Annex V of MARPOL.	13
[58]	Section 138 Form of garbage record book	14
	Insert before section 138(1)—	15
(1A)	A garbage record book may be kept electronically, in a way approved by the relevant national maritime authority of the country whose flag the ship is entitled to fly.	16
[59]	Section 138(2)(b)	17
	Omit the paragraph. Insert instead—	18
(b)	a signature—	19
(i)	for a record book kept electronically—on each group of electronic entries, or	20
(ii)	otherwise—on each page of the record book.	21
	Note. See the Guidelines for use of electronic record books under MARPOL, adopted by Resolution MEPC.312(74).	22
[60]	Section 145 Garbage record book to be retained	23
	Omit “last entry was made in the book” from section 145(1).	24
	Insert instead “book is required to be retained on the ship in accordance with section 144”.	25
[61]	Section 148 Regulations relating to construction of ships	26
	Omit section 148(1)(c).	27
[62]	Section 149 References to compliance with Annexes of MARPOL	28
	Omit the section.	29
[63]	Section 150 Requirement for ship construction certificate	30
	Omit section 150(4). Insert instead—	31
(4)	In this section—	32
	<i>prescribed ship</i> means a ship—	33
(a)	that is—	34
(i)	an oil tanker that has a gross tonnage of 150 or more, or	35

(ii)	a ship, other than an oil tanker, that has a gross tonnage of 400 or more, and	1 2
(b)	engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to MARPOL.	3 4
	ship construction certificate means—	5
(a)	an International Oil Pollution Prevention Certificate issued under section 132 of the <i>Navigation Act 2012</i> of the Commonwealth, or	6 7
(b)	a ship construction certificate issued under a law of another State or the Northern Territory that is a certificate of a kind prescribed by the regulations as acceptable for the purposes of this Part, or	8 9 10
(c)	an International Oil Pollution Prevention Certificate issued to—	11
(i)	a foreign ship under section 319 of the <i>Navigation Act 2012</i> of the Commonwealth, or	12 13
(ii)	a foreign ship under the law of a country other than Australia giving effect to Regulation 7 of Annex I of MARPOL, or	14 15
(iii)	an Australian ship under the law of a country other than Australia giving effect to Regulation 8 of Annex I of MARPOL.	16 17
[64]	Section 151 Requirement for chemical tanker construction certificate	18
	Omit section 151(4). Insert instead—	19
(4)	In this section—	20
	chemical tanker construction certificate means—	21
(a)	an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued under section 132 of the <i>Navigation Act 2012</i> of the Commonwealth, or	22 23 24
(b)	a chemical tanker construction certificate issued under a law of another State or the Northern Territory that is a certificate of a kind prescribed by the regulations as acceptable for the purposes of this Part, or	25 26 27
(c)	an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued to—	28 29
(i)	a foreign ship under section 319 of the <i>Navigation Act 2012</i> of the Commonwealth, or	30 31
(ii)	a foreign ship under the law of a country other than Australia giving effect to Regulation 9 of Annex II of MARPOL, or	32 33
(iii)	an Australian ship under the law of a country other than Australia giving effect to Regulation 9 of Annex II of MARPOL.	34 35
	prescribed ship means a ship—	36
(a)	intended to carry noxious liquid substances in bulk, and	37
(b)	engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to MARPOL.	38 39
[65]	Section 152 Requirement for sewage pollution prevention certificate	40
	Omit “large ship must not begin a voyage unless there is a sewage pollution prevention certificate in force in respect of the ship.” from section 152(1).	41 42
	Insert instead—	43
	prescribed ship must not begin a voyage unless—	44
(a)	there is a sewage pollution prevention certificate in force for the ship, and	45 46

(b)	the sewage pollution prevention certificate complies with—	1
(i)	the condition imposed by Regulation 4.7 of Annex IV of MARPOL, or	2
(ii)	the conditions, if any, prescribed by the regulations.	3
		4
[66]	Section 152(2)	5
	Omit “large ship must not permit the ship to begin a voyage unless a sewage pollution prevention certificate is in force in respect of the ship.”.	6
	Insert instead—	7
	prescribed ship must not permit the ship to begin a voyage unless—	8
(a)	there is a sewage pollution prevention certificate in force for the ship, and	9
(b)	the sewage pollution prevention certificate complies with—	10
(i)	the condition imposed by Regulation 4.7 of Annex IV of MARPOL, or	11
(ii)	the conditions, if any, prescribed by the regulations.	12
		13
		14
		15
[67]	Section 152(3)	16
	Omit “large ship”. Insert instead “prescribed ship”.	17
[68]	Section 152(4)	18
	Omit the subsection.	19
	Insert instead—	20
(4)	In this section—	21
	<i>prescribed ship</i> means—	22
(a)	a large ship on an overseas voyage, or	23
(b)	a vessel required to carry a sewage pollution prevention certificate under the laws of another State or the Northern Territory, or	24
(c)	a ship prescribed by the regulations for the purposes of this section.	25
	<i>sewage pollution prevention certificate</i> means—	26
(a)	if the prescribed ship is either a vessel on an overseas voyage with a gross tonnage of 400 or more or a vessel with a gross tonnage of less than 400 that is certified to carry more than 15 persons—an International Sewage Pollution Prevention Certificate issued—	27
(i)	under section 132 of the <i>Navigation Act 2012</i> of the Commonwealth, or	28
(ii)	to a foreign ship under section 319 of the <i>Navigation Act 2012</i> of the Commonwealth, or	29
(iii)	to a foreign ship under the law of a country other than Australia giving effect to Regulation 5 of Annex IV of MARPOL, or	30
(iv)	to an Australian ship under the law of a country other than Australia giving effect to Regulation 6 of Annex IV of MARPOL, or	31
(b)	if the prescribed ship is on an voyage, other than an overseas voyage, and is a vessel under the jurisdiction of another State or the Northern Territory that is required to carry a sewage pollution prevention certificate under the laws of the other jurisdiction—a sewage pollution prevention certificate issued under a law of the jurisdiction of another	32
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	State or the Northern Territory, prescribed by the regulations as being a sewage pollution prevention certificate, or	1 2
	(c) for a vessel prescribed in the regulations for the purposes of this section that is not a vessel specified in paragraphs (a) or (b)—a certificate issued in accordance with the regulations.	3 4 5
[69]	Part 12, Divisions 3–8	6
	Omit the Divisions.	7
[70]	Section 178 Minister may arrange for provision of reception facilities	8
	Omit “Regulation 7 of Annex V of MARPOL.” from section 178(d).	9
	Insert instead “Regulation 8 of Annex V of MARPOL, and”.	10
[71]	Section 178(e)	11
	Insert after paragraph (d)—	12
	(e) reception facilities for exhaust gas cleaning residues from an exhaust gas cleaning system under Regulation 17 of Annex VI of MARPOL.	13 14
[72]	Section 180 Minister may require person to provide, maintain and make available reception facilities	15 16
	Insert after paragraph (d) of the definition of <i>prescribed waste</i> in section 180(2)—	17
	(e) exhaust gas cleaning residues from an exhaust gas cleaning system.	18
[73]	Section 183 Minister may take action to prevent or clean up marine pollution	19
	Insert at the end of section 183(1)(b)—	20
	, or	21
	(c) marine pollutants are, or have been carried, on a vessel that has been abandoned, is out-of-commission or derelict.	22 23
[74]	Section 183(2)(d)	24
	Insert “or a marine pollution removal notice” after “notice”.	25
[75]	Section 183(3), definition of “preventative or clean-up action”	26
	Insert at the end of paragraph (d)—	27
	, or	28
	(e) to prevent, minimise, remove, disperse or destroy a marine pollutant or prevent, minimise or mitigate pollution that is likely to occur from a vessel that has been abandoned, is out-of-commission or derelict.	29 30 31
[76]	Section 183(3)	32
	Insert in alphabetical order—	33
	<i>marine pollution prevention notice</i> has the same meaning as in Part 16.	34
	<i>marine pollution removal notice</i> has the same meaning as in Part 16.	35
[77]	Section 184 Recovery of costs and expenses of preventative action or clean-up action	36 37
	Insert at the end of section 184(1)(f)—	38
	, or	39

(g)	if the action is for a vessel that has been abandoned, is out-of-commission or derelict—the owner of the vessel within the meaning of section 202A(6).	1 2 3
[78]	Section 189 Oiled Wildlife Care Network	4
	Omit “establish” from section 189(1). Insert instead “have”.	5
[79]	Section 190 Definitions	6
	Omit “that is subject to a chemical tanker construction certificate certifying the ship to carry noxious liquid substances in bulk” from paragraph (b)(i) of the definition of <i>marine pollution incident</i> .	7 8 9
[80]	Section 190, definition of “marine pollution incident”	10
	Omit “large” from paragraph (d).	11
[81]	Section 190	12
	Insert in alphabetical order—	13
	<i>marine pollution removal notice</i> means a notice under Division 4A.	14
	<i>public authority</i> means a public or local authority constituted by or under an Act, and includes—	15 16
	(a) a government department, and	17
	(b) a local council, and	18
	(c) a member of staff or other person who exercises functions on behalf of a public authority.	19 20
[82]	Section 191 Classification of marine environment protection notices	21
	Insert after paragraph (c) of the definition of <i>marine environment protection notices</i> —	22
	(d) marine pollution removal notices.	23
[83]	Section 194 Clean-up by public authorities	24
	Omit section 194(5).	25
[84]	Part 16, Division 4A	26
	Insert after Division 4—	27
	Division 4A Marine pollution removal notice	28
202A	Preventative action for abandoned, out-of-commission or derelict vessels	29
(1)	This section applies if the Minister is of the opinion that—	30
	(a) a vessel has been abandoned, is out-of-commission or derelict, and	31
	(b) marine pollutants are, or have been, carried on the vessel.	32
(2)	The Minister may, by written notice given to the owner of the vessel, direct the owner to do any of the following—	33 34
	(a) the action specified in the notice, within the period specified in the notice,	35 36
	(b) take action to prevent, minimise, remove, disperse or destroy a marine pollutant or prevent, minimise or mitigate pollution that is likely to occur,	37 38 39
	(c) take action to ascertain the nature and extent of the possible pollution,	40

(d)	prepare and carry out a remedial course of action.	1
(3)	The marine pollution removal notice may require the person given the notice to give reports to the Minister regarding progress on the carrying out of the action required by subsection (2).	2 3 4
(4)	If the person given a marine pollution removal notice complies with the notice but was not the owner of the vessel, the cost of complying with the notice may be recovered by the person as a debt in a court of competent jurisdiction from the owner of the vessel.	5 6 7 8
(5)	A person given a marine pollution removal notice who, without reasonable excuse, does not comply with the notice is guilty of an offence. Maximum penalty—	9 10 11
(a)	for a corporation—\$1,000,000 and, for a continuing offence, a further penalty of \$120,000 for each day the offence continues, or	12 13
(b)	for an individual—\$250,000 and, for a continuing offence, a further penalty of \$60,000 for each day the offence continues.	14 15
(6)	In this section— <i>certificate of registry</i> includes an Australian or foreign vessel registered on the Australian and International Shipping Registers. Editor's note. The Australian Maritime Safety Authority keeps a list of registered ships. The list is available on the website of the Australian Maritime Safety Authority (www.amsa.gov.au). <i>marine safety licence</i> has the same meaning as in the <i>Marine Safety Act 1998</i> . <i>National licence</i> has the same meaning as in the <i>Marine Safety Act 1998</i> . <i>owner</i> , in relation to an abandoned, derelict or out-of-commission vessel—	16 17 18 19 20 21 22 23 24
(a)	has the same meaning as in the <i>Marine Safety Act 1998</i> , and	25
(b)	if there is no current marine safety licence, National licence or other certificate of registry for the vessel—extends to the last person registered as the vessel's owner in the marine safety licence, National licence or other certificate of registry for the vessel.	26 27 28 29
202B	Commencement of operation of marine pollution removal notices or variations	30
	A marine pollution removal notice, or a variation of a marine pollution removal notice, operates from the day the notice or notice of the variation is given or from a later day specified by the notice.	31 32 33
202C	Fee	34
(1)	The purpose of this section is to enable the Minister to recover the administrative costs of preparing and giving marine pollution removal notices.	35 36
(2)	A person who is given a marine pollution removal notice by the Minister must, within 30 days, pay the fee prescribed by the regulations to the Minister.	37 38
(3)	The Minister may—	39
(a)	extend the time for payment of the fee, on the application of the person, or	40 41
(b)	waive the payment of the whole or part of the fee, on the Minister's own initiative or on the application of the person.	42 43
(4)	A fee is not payable for the variation of a marine pollution removal notice.	44
(5)	A person who does not pay the fee within the time provided under this section is guilty of an offence.	45 46

	Maximum penalty—\$22,000.	1
[85]	Section 205 Marine pollution compliance cost notices	2
	Omit “or marine pollution prevention notice” from section 205(1).	3
	Insert instead “, marine pollution prevention notice or marine pollution removal notice”.	4
[86]	Section 216 Recovery of damages, costs or expenses relating to discharge prohibited by Act	5
	Omit “that is subject to a chemical tanker construction certificate certifying the ship to carry noxious liquid substances in bulk” from section 216(1)(b)(i).	6
[87]	Section 216(1)(d)	9
	Omit “large”.	10
[88]	Section 221 Ships that are believed to have discharged marine pollutants may be detained	11
	Omit “, and” from section 221(2)(b).	12
[89]	Section 221(2)(c)	14
	Omit the paragraph.	15
[90]	Section 228 Powers of inspectors and authorised persons	16
	Insert “or the regulations, the <i>Marine Safety Act 1998</i> or the regulations made under that Act” after “this Act” in section 228(2)(f).	17
[91]	Section 243 Regulations	18
	Insert “the standards required to be met for the discharge of sewage, plans required for waste management and directions that may be given in relation to waste,” after “facilities,” in section 243(2)(d).	19
[92]	Section 243(2)(l)	20
	Insert after section 243(2)(k)—	21
	(l) prescribing the category or categories of vessels required to have sewage pollution prevention certificates, and the issue, survey, duration, renewal and cancellation or otherwise of the certificates.	22
[93]	Section 247 Delegation	23
	Omit paragraph (c) from the definition of <i>approved person</i> in section 247(3).	24
	Insert instead—	25
	(c) the Port Authority of New South Wales or a member of staff of the Port Authority of New South Wales, or	26
[94]	Schedule 2 Savings, transitional and other provisions	27
	Omit clause 5.	28
[95]	Schedule 2, clause 7	29
	Omit the clause.	30

1.2 Amendments to headings and notes	1
[1] Section 3 Definitions	2
Omit “(cf former Act s 3)” from the heading.	3
[2] Section 4 Expressions used in this Act and MARPOL	4
Omit “(cf former Act ss 7, 14 and 25)” from the heading.	5
[3] Section 7 References to tonnage	6
Omit “(cf former Act s 3 (6))” from the heading.	7
[4] Section 9 Saving of other laws	8
Omit “(cf former Act s 5)” from the heading.	9
[5] Section 10 Act subject to Ports and Maritime Administration Act 1995	10
Omit “(cf former Act s 5A)” from the heading.	11
[6] Section 13 Discharge outside State waters that enters State waters	12
Omit “(cf former Act s 3 (5))” from the heading.	13
[7] Part 3, Division 1, note	14
Insert after the heading to the Division—	15
Editor’s note. See Reg 15.1 of Annex I of MARPOL.	16
[8] Section 15 Discharging oil into State waters from a ship prohibited	17
Omit “(Reg 15.1 of Annex I of MARPOL) (cf former Act s 8 (1))” from the heading.	18
[9] Section 16 Causing discharge of oil into State waters from a ship prohibited	19
Omit “(Reg 15.1 of Annex I of MARPOL) (cf former Act s 8A (1))” from the heading.	20
[10] Section 17 Offence of being responsible for discharge of oil into State waters from a ship	21
Omit “(Reg 15.1 of Annex I of MARPOL) (cf former Act s 8A (3))” from the heading.	22
[11] Section 18 Defence if discharge was caused by damage to ship or equipment	24
Omit “(Reg 4.2 of Annex I of MARPOL) (cf former Act s 8 (2) (b) and (3))” from the heading.	25
	26
[12] Section 18, note	27
Insert at the end of the section—	28
Editor’s note. See Reg 4.2 of Annex I of MARPOL.	29
[13] Section 19 Defence if discharge was to secure safety or save life	30
Omit “(Reg 4.1 of Annex I of MARPOL) (cf former Act s 8 (2) (a))” from the heading.	31
[14] Section 19, note	32
Insert at the end of the section—	33
Editor’s note. See Reg 4.1 of Annex I of MARPOL.	34

[15] Section 20 Defence if discharge was for purpose of combating pollution	1
Omit “(Reg 4.3 of Annex I of MARPOL) (cf former Act s 8 (2) (c))” from the heading.	2
[16] Section 20, note	3
Insert at the end of the section—	4
Editor’s note. See Reg 4.3 of Annex I of MARPOL.	5
[17] Section 21 Defence if discharge was authorised for training	6
Omit “(cf former Act s 8 (2) (d))” from the heading.	7
[18] Section 22, note	8
Insert at the end of the section—	9
Editor’s note. See Regs 15.2 and 15.8 of Annex I of MARPOL.	10
[19] Section 24 Defence for smaller ships and oil tankers	11
Omit “(Regs 15.6 and 15.8 of Annex I of MARPOL)” from the heading.	12
[20] Section 24, note	13
Insert at the end of the section—	14
Editor’s note. See Regs 15.6 and 15.8 of Annex I of MARPOL.	15
[21] Section 25 Defence for discharge of clean or segregated ballast from oil tankers	16
Omit “(Regs 34.2 and 34.4 of Annex I of MARPOL) (cf former Act s 8 (4) (j))” from the heading.	17 18
[22] Section 25, note	19
Insert at the end of the section—	20
Editor’s note. See Reg 34.2 of Annex I of MARPOL.	21
[23] Section 26 Failing to retain oil residues	22
Omit “(cf former Act s 9)” from the heading.	23
[24] Part 4, Division 1, note	24
Insert after the heading to the Division—	25
Editor’s note. See Reg 13.1.3 of Annex II of MARPOL.	26
[25] Sections 27 and 28	27
Omit “(Reg 13.1.3 of Annex II of MARPOL)” wherever occurring.	28
[26] Part 4, Division 2, note	29
Insert after the heading to the Division—	30
Editor’s note. See Reg 13 of Annex II of MARPOL.	31
[27] Section 29 Discharging noxious liquid substances into State waters from ship prohibited	32 33
Omit “(Reg 13 of Annex II of MARPOL) (cf former Act s 18 (1))” from the heading.	34
[28] Section 30 Causing discharge of noxious liquid substances into State waters from ship prohibited	35 36
Omit “(Reg 13 of Annex II of MARPOL) (cf former Act s 18A (1))” from the heading.	37

[29] Section 31 Offence of being responsible for discharge of noxious liquid substances into State waters from a ship	1 2
Omit “(Reg 13 of Annex II of MARPOL) (cf former Act s 18A (3))” from the heading.	3
[30] Section 32 Defence if discharge was caused by damage to ship or equipment	4
Omit “(Reg 3.1.2 of Annex II of MARPOL) (cf former Act s 18 (2) (b) and (3))” from the heading.	5 6
[31] Section 32, note	7
Insert at the end of the section—	8
Editor’s note. See Reg 3.1.2 of Annex II of MARPOL.	9
[32] Section 33 Defence if discharge was to secure safety or save life	10
Omit “(Reg 3.1.1 of Annex II of MARPOL) (cf former Act s 18 (2) (a))” from the heading.	11
[33] Section 33, note	12
Insert at the end of the section—	13
Editor’s note. See Reg 3.1.1 of Annex II of MARPOL.	14
[34] Section 34 Defence if discharge was for purpose of combating pollution	15
Omit “(Reg 3.1.3 of Annex II of MARPOL) (cf former Act s 18 (2) (c))” from the heading.	16
[35] Section 34, note	17
Insert at the end of the section—	18
Editor’s note. See Reg 3.1.3 of Annex II of MARPOL.	19
[36] Section 40 Defence for discharge of bilge water	20
Omit “(Reg 6.1.4 of Annex II of MARPOL) (cf former Act s 18 (11))” from the heading.	21
[37] Section 40, note	22
Insert at the end of the section—	23
Editor’s note. See Reg 6.1.4 of Annex II of MARPOL.	24
[38] Section 41 Defence for discharge of clean ballast or segregated ballast	25
Omit “(Reg 13.7.2.3 of Annex II of MARPOL) (cf former Act s 18 (12))” from the heading.	26
[39] Section 41, note	27
Insert at the end of the section—	28
Editor’s note. See Reg 13.7.2.3 of Annex II of MARPOL.	29
[40] Section 42 Regulations may make provision for cleaning of tanks of ships	30
Omit “(Regs 13 and 16 of Annex II of MARPOL) (cf former Act s 24)” from the heading.	31
[41] Section 42, note	32
Insert at the end of the section—	33
Editor’s note. See Regs 13 and 16 of Annex II of MARPOL.	34
[42] Part 5, Division 1, note	35
Insert after the heading to the Division—	36
Editor’s note. See Reg 2.1 of Annex III of MARPOL.	37

[43] Sections 43 and 44	1
Omit “(Reg 1.2 of Annex III of MARPOL)” wherever occurring.	2
[44] Part 5, Division 2, note	3
Insert after the heading to the Division—	4
Editor’s note. See Reg 8.1 of Annex III of MARPOL.	5
[45] Sections 45–48	6
Omit “(Reg 7.1 of Annex III of MARPOL)” wherever occurring.	7
[46] Section 48, note	8
Insert at the end of the section—	9
Editor’s note. See Reg 8.1 of Annex III of MARPOL.	10
[47] Section 49 Defence for certain leakages causing substances to be washed overboard	11
Omit “(Reg 7.2 of Annex III of MARPOL)” from the heading.	12
[48] Section 49, note	13
Insert at the end of the section—	14
Editor’s note. See Reg 8.2 of Annex III of MARPOL.	15
[49] Section 50 Part does not apply to stores or equipment	16
Omit “(Reg 1.5 of Annex III of MARPOL)” from the heading.	17
[50] Section 50, note	18
Insert at the end of the section—	19
Editor’s note. See Reg 2.4 of Annex III of MARPOL.	20
[51] Section 51 Leakages taken to be jettisoned	21
Omit “(Reg 1 of Annex III of MARPOL)” from the heading.	22
[52] Section 51, note	23
Insert at the end of the section—	24
Editor’s note. See Reg 8.1 of Annex III of MARPOL.	25
[53] Section 52 Empty packaging	26
Omit “(Reg 1.4 of Annex III of MARPOL)” from the heading.	27
[54] Section 52, note	28
Insert at the end of the section—	29
Editor’s note. See Reg 2.3 of Annex III of MARPOL.	30
[55] Part 6, Division 1, note	31
Insert after the heading to the Division—	32
Editor’s note. See Reg 11 of Annex IV of MARPOL.	33
[56] Sections 53–55	34
Omit “(Reg 11 of Annex IV of MARPOL)” wherever occurring.	35

[57] Section 56 Defence for discharge caused by damage to ship or equipment	1
Omit “(Reg 3.1.2 of Annex IV of MARPOL)” from the heading.	2
[58] Section 56, note	3
Insert at the end of the section—	4
Editor’s note. See Reg 3.1.2 of Annex IV of MARPOL.	5
[59] Section 57 Defence for discharge to secure safety or save life	6
Omit “(Reg 3.1.1 of Annex IV of MARPOL)” from the heading.	7
[60] Section 57, note	8
Insert at the end of the section—	9
Editor’s note. See Reg 3.1.1 of Annex IV of MARPOL.	10
[61] Section 59 Defence of discharge of treated sewage	11
Omit “(Reg 11.1.2 of Annex IV of MARPOL)” from the heading.	12
[62] Section 59, note	13
Insert at the end of the section—	14
Editor’s note. See Reg 11.1.2 of Annex IV of MARPOL.	15
[63] Part 7, Division 1, note	16
Insert after the heading to the Division—	17
Editor’s note. See Reg 3.1 of Annex V of MARPOL.	18
[64] Sections 60–62	19
Omit “(Regs 3.1 and 5.2 of Annex V of MARPOL)” wherever occurring.	20
[65] Section 63 Defence if discharge was caused by damage to ship or equipment	21
Omit “(Reg 6 (b) of Annex V of MARPOL)” from the heading.	22
[66] Section 63, note	23
Insert at the end of the section—	24
Editor’s note. See Reg 7.1.2 of Annex V of MARPOL.	25
[67] Section 64 Defence if discharge was to secure safety or save life	26
Omit “(Reg 6 (a) of Annex V of MARPOL)” from the heading.	27
[68] Section 64, note	28
Insert at the end of the section—	29
Editor’s note. See Reg 7.1.1 of Annex V of MARPOL.	30
[69] Section 65, note	31
Insert at the end of the section—	32
Editor’s note. See Reg 7.1.3 of Annex V of MARPOL.	33
[70] Sections 68–73	34
Omit “(cf former Act s 27)” wherever occurring.	35

[71] Section 75 Division 2 does not apply to certain discharges	1
Omit “(cf former Act s 26 (c))” from the heading.	2
[72] Section 76 Division 2 does not apply to discharge for purposes of combating pollution incidents	3
Omit “(cf former Act s 27 (2) (a))” from the heading.	4
[73] Section 77 Division 2 does not apply to certain licensed discharges	6
Omit “(cf former Act s 27 (2) (b))” from the heading.	7
[74] Section 78 Keeping of records relating to transfer	8
Omit “(cf former Act s 29 (2))” from the heading.	9
[75] Section 79 Entries required to be made	10
Omit “(cf former Act s 29 (4))” from the heading.	11
[76] Section 80 Transmission of records relating to transfer operation	12
Omit “(cf former Act s 29 (5))” from the heading.	13
[77] Section 81 Disposal of records relating to transfer operation	14
Omit “(cf former Act s 29 (3) (d))” from the heading.	15
[78] Section 82 False or misleading entries prohibited	16
Omit “(cf former Act s 29 (6))” from the heading.	17
[79] Section 83 Several liability	18
Omit “(cf former Act s 31)” from the heading.	19
[80] Section 84 Multiple offenders	20
Omit “(cf former Act s 25 (3))” from the heading.	21
[81] Section 87 Master must report reportable incident	22
Omit “(Article I (1) of Protocol I of MARPOL) (cf former Act ss 10 (1) and 20 (1))” from the heading.	23
	24
[82] Section 87, note	25
Insert at the end of the section—	26
Editor’s note. See Article I(1) of Protocol I of MARPOL.	27
[83] Section 88 Master must provide supplementary report if Minister requires it	28
Omit “(Article IV (b) of Protocol I of MARPOL) (cf former Act ss 10 (6) and 20 (6))” from the heading.	29
	30
[84] Section 88, note	31
Insert at the end of the section—	32
Editor’s note. See Article IV(b) of Protocol I of MARPOL.	33
[85] Section 89 Master must provide supplementary report if further developments arise	34
Omit “(Article IV (b) of Protocol I of MARPOL)” from the heading.	35

[86] Section 89, note	1
Insert at the end of the section—	2
Editor’s note. See Article IV(a) of Protocol I of MARPOL.	3
[87] Sections 90 and 91	4
Omit “(Article I (2) of Protocol I of MARPOL) (cf former Act ss 10 (3) and 20 (3))” wherever occurring.	5 6
[88] Section 90, note	7
Insert at the end of the section—	8
Editor’s note. See Article I(2) of Protocol I of MARPOL.	9
[89] Section 91, note	10
Insert at the end of the section—	11
Editor’s note. See Article I(2) of Protocol I of MARPOL.	12
[90] Section 92 Duty of other persons to provide supplementary report	13
Omit “(Article IV (b) of Protocol I of MARPOL) (cf former Act ss 10 (7) and 20 (7))” from the heading.	14 15
[91] Section 92, note	16
Insert at the end of the section—	17
Editor’s note. See Article IV(a) and (b) of Protocol I of MARPOL.	18
[92] Section 93 False or misleading reports	19
Omit “(cf former Act ss 10 (8) and 20 (8))” from the heading.	20
[93] Section 94 Inadmissibility of certain evidence	21
Omit “(cf former Act ss 10 (9) and 20 (9))” from the heading.	22
[94] Sections 95 and 96	23
Omit “(Reg 37.1 of Annex I of MARPOL)” wherever occurring.	24
[95] Section 95, note	25
Insert at the end of the section—	26
Editor’s note. See Reg 37.1 of Annex I of MARPOL.	27
[96] Section 96, note	28
Insert at the end of the section—	29
Editor’s note. See Reg 37.1 of Annex I of MARPOL.	30
[97] Sections 97 and 98	31
Omit “(Reg 37.2 of Annex I of MARPOL)” wherever occurring.	32
[98] Section 97, note	33
Insert at the end of the section—	34
Editor’s note. See Reg 37.2 of Annex I of MARPOL.	35
[99] Section 98, note	36
Insert at the end of the section—	37

	Editor's note. See Reg 37.2 of Annex I of MARPOL.	1
[100]	Sections 100 and 101	2
	Omit "(Reg 17.1 of Annex II of MARPOL)" wherever occurring.	3
[101]	Section 100, note	4
	Insert at the end of the section—	5
	Editor's note. See Reg 17.1 of Annex II of MARPOL.	6
[102]	Section 101, note	7
	Insert at the end of the section—	8
	Editor's note. See Reg 17.1 of Annex II of MARPOL.	9
[103]	Sections 102 and 103	10
	Omit "(Reg 17.2 of Annex II of MARPOL)" wherever occurring.	11
[104]	Section 102, note	12
	Insert at the end of the section—	13
	Editor's note. See Reg 17.2 of Annex II of MARPOL.	14
[105]	Section 103, note	15
	Insert at the end of the section—	16
	Editor's note. See Reg 17.2 of Annex II of MARPOL.	17
[106]	Section 104 Procedures and arrangements manual required	18
	Omit "(Reg 14.1 of Annex II of MARPOL)" from the heading.	19
[107]	Section 104, note	20
	Insert at the end of the section—	21
	Editor's note. See Reg 14.1 of Annex II of MARPOL.	22
[108]	Section 105 Form and content of procedures and arrangements manual	23
	Omit "(Reg 14.2 of Annex II of MARPOL)" from the heading.	24
[109]	Section 105, note	25
	Insert at the end of the section—	26
	Editor's note. See Reg 14.2 of Annex II of MARPOL.	27
[110]	Section 106 Language of procedures and arrangements manual	28
	Omit "(Reg 14.1 of Annex II of MARPOL)" from the heading.	29
[111]	Section 106, note	30
	Insert at the end of the section—	31
	Editor's note. See Reg 14.1 of Annex II of MARPOL.	32
[112]	Section 107, note	33
	Omit "(Reg 9 of Annex V of MARPOL)" from the heading.	34
[113]	Section 107, note	35
	Insert at the end of the section—	36
	Editor's note. See Reg 10 of Annex V of MARPOL.	37

[114] Sections 108 and 109	1
Omit “(Reg 9 (2) of Annex V of MARPOL)” wherever occurring.	2
[115] Section 108, note	3
Insert at the end of the section—	4
Editor’s note. See Reg 10.2 of Annex V of MARPOL.	5
[116] Section 109, note	6
Insert at the end of the section—	7
Editor’s note. See Reg 10.2 of Annex V of MARPOL.	8
[117] Sections 110 and 111	9
Omit “(Reg 9 (1) (a) of Annex V of MARPOL)” wherever occurring.	10
[118] Section 110, note	11
Insert at the end of the section—	12
Editor’s note. See Reg 10.1.1 of Annex V of MARPOL.	13
[119] Section 111, note	14
Insert at the end of the section—	15
Editor’s note. See Reg 10.1.1 of Annex V of MARPOL.	16
[120] Section 112, heading	17
Omit “(Reg 9 (1) (b) of Annex V of MARPOL)” from the heading.	18
[121] Section 112, note	19
Insert at the end of the section—	20
Editor’s note. See Reg 10.1.2 of Annex V of MARPOL.	21
[122] Section 113 Requirement to carry an oil record book	22
Omit “(Regs 17.1 and 36.1 of Annex I of MARPOL) (cf former Act s 11 (2) and (4))” from the heading.	23 24
[123] Section 113, note	25
Insert at the end of the section—	26
Editor’s note. See Regs 17.1 and 36.1 of Annex I of MARPOL.	27
[124] Section 114 Form of oil record book	28
Omit “(Regs 17.4 and 36.5 of Annex I of MARPOL) (cf former Act s 11 (3))” from the heading.	29 30
[125] Section 114, note	31
Insert at the end of the section—	32
Editor’s note. See Regs 17.4 and 36.5 of Annex I of MARPOL.	33
[126] Section 115 Language of oil record book	34
Omit “(Regs 17.4 and 36.5 of Annex I of MARPOL) (cf former Act s 11 (6) (a))” from the heading.	35 36

[127] Section 115, note	1
Insert at the end of the section—	2
Editor’s note. See Regs 17.4 and 36.5 of Annex I of MARPOL.	3
[128] Section 116 Master must sign completed page of oil record book	4
Omit “(cf former Act s 11 (7))” from the heading.	5
[129] Section 117 Entries in relation to prescribed operations or occurrences	6
Omit “(Regs 17.4 and 36.5 of Annex I of MARPOL) (cf former Act s 11 (5))” from the heading.	7 8
[130] Section 117, note	9
Insert at the end of the section—	10
Editor’s note. See Regs 17.4 and 36.5 of Annex I of MARPOL.	11
[131] Section 118 Entries in relation to inspections	12
Omit “(Regs 17.1 and 36.8 of Annex I of MARPOL)” from the heading.	13
[132] Section 118, note	14
Insert at the end of the section—	15
Editor’s note. See Regs 17.7 and 36.8 of Annex I of MARPOL.	16
[133] Section 119 False entries in oil record book	17
Omit “(Regs 17.7 and 36.8 of Annex I of MARPOL) (cf former Act s 12)” from the heading.	18 19
[134] Section 119, note	20
Insert at the end of the section—	21
Editor’s note. See Regs 17.7 and 36.8 of Annex I of MARPOL.	22
[135] Sections 120 and 121	23
Omit “(Regs 17.6 and 36.7 of Annex I of MARPOL) (cf former Act s 13)” wherever occurring.	24 25
[136] Section 120, note	26
Insert at the end of the section—	27
Editor’s note. See Regs 17.6 and 36.7 of Annex I of MARPOL.	28
[137] Section 121, note	29
Insert at the end of the section—	30
Editor’s note. See Regs 17.6 and 36.7 of Annex I of MARPOL.	31
[138] Sections 122 and 123	32
Omit “(Regs 17.7 and 36.8 of Annex I of MARPOL)” wherever occurring.	33
[139] Section 122, note	34
Insert at the end of the section—	35
Editor’s note. See Regs 17.7 and 36.8 of Annex I of MARPOL.	36

[140] Section 123, note	1
Insert at the end of the section—	2
Editor’s note. See Regs 17.7 and 36.8 of Annex I of MARPOL.	3
[141] Section 124 Requirement to carry cargo record book	4
Omit “(Reg 15.1 of Annex II of MARPOL) (cf former Act s 21 (2) and (4))” from the heading.	5 6
[142] Section 124, note	7
Insert at the end of the section—	8
Editor’s note. See Reg 15.1 of Annex II of MARPOL.	9
[143] Section 125 Form of cargo record book	10
Omit “(Reg 15.1 of Annex II of MARPOL) (cf former Act s 21 (3))” from the heading.	11
[144] Section 125, note	12
Insert at the end of the section—	13
Editor’s note. See Reg 15.1 of Annex II of MARPOL.	14
[145] Section 126 Language of cargo record book	15
Omit “(Reg 15.4 of Annex II of MARPOL) (cf former Act s 21 (7) (a))” from the heading.	16
[146] Section 126, note	17
Insert at the end of the section—	18
Editor’s note. See Reg 15.4 of Annex II of MARPOL.	19
[147] Section 127 Master must sign completed page of cargo record book	20
Omit “(Reg 15.4 of Annex II of MARPOL) (cf former Act s 21 (8))” from the heading.	21
[148] Section 127, note	22
Insert at the end of the section—	23
Editor’s note. See Reg 15.4 of Annex II of MARPOL.	24
[149] Section 128 Entries in relation to prescribed operations or occurrences	25
Omit “(Reg 15.2 of Annex II of MARPOL) (cf former Act s 21 (5))” from the heading.	26
[150] Section 128, note	27
Insert at the end of the section—	28
Editor’s note. See Reg 15.2 of Annex II of MARPOL.	29
[151] Section 129 Entries in relation to inspections	30
Omit “(Reg 15.6 of Annex II of MARPOL) (cf former Act s 21 (6))” from the heading.	31
[152] Section 129, note	32
Insert at the end of the section—	33
Editor’s note. See Reg 15.6 of Annex II of MARPOL.	34
[153] Section 130 False entries in cargo record book	35
Omit “(Reg 15.6 of Annex II of MARPOL) (cf former Act s 22)” from the heading.	36

[154] Section 130, note	1
Insert at the end of the section—	2
Editor’s note. See Reg 15.6 of Annex II of MARPOL.	3
[155] Sections 131 and 132	4
Omit “(Reg 15.5 of Annex II of MARPOL) (cf former Act s 23)” wherever occurring.	5
[156] Section 131, note	6
Insert at the end of the section—	7
Editor’s note. See Reg 15.5 of Annex II of MARPOL.	8
[157] Section 132, note	9
Insert at the end of the section—	10
Editor’s note. See Reg 15.5 of Annex II of MARPOL.	11
[158] Sections 133 and 134	12
Omit “(Reg 15.6 of Annex II of MARPOL)” wherever occurring.	13
[159] Section 133, note	14
Insert at the end of the section—	15
Editor’s note. See Reg 15.6 of Annex II of MARPOL.	16
[160] Section 134, note	17
Insert at the end of the section—	18
Editor’s note. See Reg 15.6 of Annex II of MARPOL.	19
[161] Sections 135, 136, 138 and 141	20
Omit “(Reg 9.3 of Annex V of MARPOL)” wherever occurring.	21
[162] Section 135, note	22
Insert at the end of the section—	23
Editor’s note. See Reg 10.3 of Annex V of MARPOL.	24
[163] Section 136, note	25
Insert at the end of the section—	26
Editor’s note. See Reg 10.3 of Annex V of MARPOL.	27
[164] Section 138, note	28
Insert at the end of the section—	29
Editor’s note. See Reg 10.3 of Annex V of MARPOL.	30
[165] Sections 139 and 140	31
Omit “(Reg 9.3.a of Annex V of MARPOL)” wherever occurring.	32
[166] Section 139, note	33
Insert at the end of the section—	34
Editor’s note. See Reg 10.3.1 of Annex V of MARPOL.	35
[167] Section 140, note	36
Insert at the end of the section—	37

	Editor's note. See Reg 10.3.1 of Annex V of MARPOL.	1
[168]	Section 141, note	2
	Insert at the end of the section—	3
	Editor's note. See Reg 10.3 of Annex V of MARPOL.	4
[169]	Sections 142, 143, 146 and 147	5
	Omit "(Reg 9.5 of Annex V of MARPOL)" wherever occurring.	6
[170]	Section 142, note	7
	Insert at the end of the section—	8
	Editor's note. See Reg 10.5 of Annex V of MARPOL.	9
[171]	Section 143, note	10
	Insert at the end of the section—	11
	Editor's note. See Reg 10.5 of Annex V of MARPOL.	12
[172]	Sections 144 and 145	13
	Omit "(Reg 9.3.c of Annex V of MARPOL)" wherever occurring.	14
[173]	Section 144, note	15
	Insert at the end of the section—	16
	Editor's note. See Reg 10.3.5 of Annex V of MARPOL.	17
[174]	Section 145, note	18
	Insert at the end of the section—	19
	Editor's note. See Reg 10.3.5 of Annex V of MARPOL.	20
[175]	Section 146, note	21
	Insert at the end of the section—	22
	Editor's note. See Reg 10.5 of Annex V of MARPOL.	23
[176]	Section 147, note	24
	Insert at the end of the section—	25
	Editor's note. See Reg 10.5 of Annex V of MARPOL.	26
[177]	Section 148 Regulations relating to construction of ships	27
	Omit "(Chapters 3 and 4 of Annex I, Regulations 11 and 12 of Annex II, Regulations 1.3 and 2–6 of Annex III and Regulations 2.2, 4 and 11 of Annex IV, of MARPOL) (cf former Act ss 35 and 40)" from the heading.	28 29 30
[178]	Section 148, note	31
	Insert at the end of the section—	32
	Editor's note. See Chapters 3 and 4 of Annex I, Regulations 11 and 12 of Annex II and Regulations 2.2, 4 and 11 of Annex IV, of MARPOL.	33 34
[179]	Section 150 Requirement for ship construction certificate	35
	Omit "(Chapter 2 of Annex I of MARPOL) (cf former Act s 39)" from the heading.	36
[180]	Section 150, note	37
	Insert at the end of the section—	38

	Editor's note. See Chapter 2 of Annex I of MARPOL.	1
[181]	Section 151 Requirement for chemical tanker construction certificate Omit "(Reg 9.1 of Annex II of MARPOL) (cf former Act s 44)" from the heading.	2 3
[182]	Section 151, note Insert at the end of the section— Editor's note. See Reg 9.1 of Annex II of MARPOL.	4 5 6
[183]	Section 152 Requirement for sewage pollution prevention certificate Omit "(Reg 5 of Annex IV of MARPOL)" from the heading.	7 8
[184]	Section 152, note Insert at the end of the section— Editor's note. See Reg 5 of Annex IV of MARPOL.	9 10 11
[185]	Section 173 Application of Part Omit "(cf former Act s 13A (1))" from the heading.	12 13
[186]	Sections 174 and 175 Omit "(cf former Act s 13B (2) and (3))" wherever occurring.	14 15
[187]	Section 176 Ship may be detained Omit "(cf former Act s 13B (4))" from the heading.	16 17
[188]	Section 177 Detained ship must not leave port Omit "(cf former Act s 13B (5) and (6))" from the heading.	18 19
[189]	Section 178 Minister may arrange for provision of reception facilities Omit "(cf former Act s 45)" from the heading.	20 21
[190]	Section 179 Regulations concerning reception facilities Omit "(cf former Act s 45 (2))" from the heading.	22 23
[191]	Section 180 Minister may require person to provide, maintain and make available reception facilities Omit "(cf former Act s 45 (4))" from the heading.	24 25 26
[192]	Section 181 Owner or occupier must comply with requirement relating to reception facilities Omit "(cf former Act s 45 (6))" from the heading.	27 28 29
[193]	Section 182 Notices Omit "(cf former Act s 45 (5))" from the heading.	30 31
[194]	Section 183 Minister may take action to prevent or clean up marine pollution Omit "(cf former Act ss 46 (1) and 47 (1))" from the heading.	32 33
[195]	Section 184 Recovery of costs and expenses of preventative action or clean-up action Omit "(cf former Act ss 46 (2) and 47 (2))" from the heading.	34 35 36

[196]	Section 185 Costs and expenses incurred by Minister are charges on ship	1
	Omit “(cf former Act s 52 (1))” from the heading.	2
[197]	Section 186 Detention of ship until recovery of costs and expenses or giving of security	3
	Omit “(cf former Act s 52 (2))” from the heading.	4
[198]	Section 188 Obstruction of officers is an offence	6
	Omit “(cf former Act s 50)” from the heading.	7
[199]	Section 203 Minister may take action in event of failure to comply	8
	Omit “(cf former Act s 50 (4))” from the heading.	9
[200]	Section 204 Obstruction of persons acting in compliance with notice is an offence	10
	Omit “(cf former Act s 50)” from the heading.	11
[201]	Section 207 Costs and expenses incurred by Minister are charges on ship	12
	Omit “(cf former Act s 52 (1))” from the heading.	13
[202]	Section 208 Detention of ship until recovery of costs and expenses or giving of security	14
	Omit “(cf former Act s 52 (2))” from the heading.	15
[203]	Sections 216 and 217	17
	Omit “(cf former Act s 51)” wherever occurring.	18
[204]	Section 218 Joint and several liability where oil or noxious liquid substance is discharged from pipeline	19
	Omit “(cf former Act s 30)” from the heading.	20
[205]	Section 219 Several liability where oil or noxious liquid substance is discharged from 2 or more ships	22
	Omit “(cf former Act s 31)” from the heading.	23
[206]	Section 220 Rights of recovery not affected	24
	Omit “(cf former Act s 47 (5))” from the heading.	25
[207]	Section 221 Ships that are believed to have discharged marine pollutants may be detained	27
	Omit “(cf former Act s 52A)” from the heading.	28
[208]	Section 222 Detained ships must not depart	29
	Omit “(cf former Act s 52C)” from the heading.	30
[209]	Section 223 Security may be required to be provided	32
	Omit “(cf former Act s 52A (3))” from the heading.	33
[210]	Section 224 Detained ships must be released if security provided or no liability	34
	Omit “(cf former Act s 52A (2))” from the heading.	35

[211]	Section 225 Security taken by Minister	1
	Omit “(cf former Act s 52B)” from the heading.	2
[212]	Section 228 Powers of inspectors and authorised persons	3
	Omit “(cf former Act s 53 (1))” from the heading.	4
[213]	Section 229 Inspectors and authorised persons may enter or inspect place on land	5
	Omit “(cf former Act s 53 (2))” from the heading.	6
[214]	Section 230 Inspector and authorised persons must not unnecessarily delay ships	7
	Omit “(cf former Act s 53 (4))” from the heading.	8
[215]	Section 231 Obstruction of inspectors and authorised persons	9
	Omit “(cf former Act s 53 (3))” from the heading.	10
[216]	Section 232 Inspectors and certain other persons have no personal liability	11
	Omit “(cf former Act s 60)” from the heading.	12
[217]	Section 233 Time within which proceedings may be commenced	13
	Omit “(cf former Act s 54)” from the heading.	14
[218]	Section 234 Proceedings for offences	15
	Omit “(cf former Act s 55)” from the heading.	16
[219]	Section 235 Offences by corporations	17
	Omit “(cf former Act s 56)” from the heading.	18
[220]	Section 236 Penalties are charges on ship	19
	Omit “(cf former Act s 52 (1))” from the heading.	20
[221]	Section 237 Detention of ship until recovery of penalty or provision of security	21
	Omit “(cf former Act s 52 (2))” from the heading.	22
[222]	Section 238 Records are admissible as evidence	23
	Omit “(cf former Act s 58)” from the heading.	24
[223]	Section 239 Proof of certain matters not required	25
	Omit “(cf former Act s 58 (d) and (e))” from the heading.	26
[224]	Section 240 Evidence of analysts	27
	Omit “(cf former Act s 59)” from the heading.	28
[225]	Section 243 Regulations	29
	Omit “(cf former Act s 61)” from the heading.	30
[226]	Section 245 Orders	31
	Omit “(cf former Act s 62)” from the heading.	32
[227]	Section 246 Prescribing matters by reference to other instruments	33
	Omit “(cf former Act s 63)” from the heading.	34

[228] Section 249 Act to bind Crown

1

Omit “(cf former Act s 4)” from the heading.

2

Schedule 2	Amendment of other instruments	1
2.1	Fire and Rescue NSW Act 1989 No 192	2
[1]	Section 3 Definitions	3
	Insert in alphabetical order in section 3(1)—	4
	<i>prescribed waters</i> means—	5
	(a) coastal waters of the State, within the meaning of Part 10 of the <i>Interpretation Act 1987</i> , and	6
	(b) waters within the limits of the State prescribed as the boundaries of a port under section 105 of the <i>Ports and Maritime Administration Act 1995</i> , and	7
	(c) other waters within the limits of the State prescribed by the regulations for the purposes of this definition.	8
[2]	Section 4 Application of Act	9
	Omit “State waters, as defined in the <i>Marine Pollution Act 2012</i> ” from section 4(2).	10
	Insert instead “prescribed waters”.	11
[3]	Section 4(3)	12
	Omit “State waters”. Insert instead “prescribed waters”.	13
[4]	Section 20A Hazardous material incidents outside area to which Act applies	14
	Omit “State waters” wherever occurring in section 20A(1) and (3).	15
	Insert instead “prescribed waters”.	16
[5]	Section 20A(4), definition of “State waters”	17
	Omit the definition.	18
2.2	Fire Brigades Regulation 2014	19
[1]	Clause 51A	20
	Insert after clause 51—	21
	51A Prescribed waters	22
	For the purposes of the definition of <i>prescribed waters</i> in section 3(1) of the Act, the waters specified in Schedule 4 are prescribed.	23
[2]	Schedule 4	24
	Insert after Schedule 3—	25
	Schedule 4 Prescribed waters	26
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2 Hastings River (Port Macquarie)	1
The waters of the Hastings River below the mean high water mark from the river entrance to the eastern side of the Dennis Bridge carrying the Pacific Highway, together with the waters below the mean high water mark of the slipway cove in the southern bank of the river immediately east of the Dennis Bridge.	2 3 4 5 6
3 Jervis Bay	7
That part of Jervis Bay below the mean high water mark that lies within the State.	8 9
4 Port Stephens	10
That part of Port Stephens below the mean high water mark bounded by a straight line drawn from the southern extremity of Corrie Island in a south easterly direction across the waterway to a point on the southern shore in line with the highest point of Tomaree Head.	11 12 13 14
2.3 Marine Pollution Regulation 2014	15
[1] Clause 4 Waters prescribed as State waters	16
Omit the clause.	17
[2] Clause 7 Adoption of Commonwealth Order about pollution from noxious liquid substances	18 19
Omit “A, B, C or D substance” from clause 7(2). Insert instead “X, Y, Z or other substance”.	20
[3] Clause 9 Adoption of Commonwealth Order about pollution from sewage	21
Omit “ <i>Marine Order 96 (Marine pollution prevention—sewage) 2013</i> of the Commonwealth, as in force on 14 December 2013”.	22 23
Insert instead “ <i>Marine Order 96 (Marine pollution prevention—sewage) 2018</i> of the Commonwealth, as in force on 15 March 2018”.	24 25
[4] Clause 10 Adoption of Commonwealth Order about pollution from garbage	26
Omit “ <i>Marine Order 95 (Marine pollution prevention—garbage) 2013</i> ” wherever occurring.	27 28
Insert instead “ <i>Marine Order 95 (Marine pollution prevention—garbage) 2018</i> ”.	29
[5] Clause 10(1)	30
Omit “1 July 2013”. Insert instead “23 February 2018”.	31
[6] Clause 12 Definitions	32
Omit “navigable” wherever occurring in the definitions of <i>inland waters</i> and <i>Murray River</i> .	33 34
[7] Clause 12, definition of “navigable waters”	35
Omit the definition.	36
[8] Clauses 14(1), 16(1) and 36(1)	37
Omit “navigable waters” wherever occurring. Insert instead “State waters”.	38

[9] Clause 16, heading	1
Omit “systems”. Insert instead “plants”.	2
[10] Clause 16	3
Omit “system” wherever occurring. Insert instead “plant”.	4
[11] Part 4, heading	5
Omit the heading. Insert instead—	6
Part 4 Emergency plans—oil spill response plans for trading ships	7
	8
[12] Part 4, Division 1, heading	9
Omit the heading.	10
[13] Clause 38 Definitions	11
Omit “Division”. Insert instead “Part”.	12
[14] Part 4, Division 2	13
Omit the Division.	14
[15] Clause 55, heading	15
Omit the heading. Insert instead—	16
55 Ship construction certificates, chemical tanker construction certificates and sewage pollution prevention certificates	17
	18
[16] Clause 55(1) and (2)	19
Omit “marine safety authority” wherever occurring. Insert instead “maritime authority”.	20
[17] Clause 55(3)	21
Insert after clause 55(2)—	22
(3) A certificate issued by a maritime authority of another State or of the Northern Territory certifying that a ship is constructed in accordance with the provisions of Annex IV of MARPOL is prescribed for the purposes of the definition of <i>sewage pollution prevention certificate</i> in section 152(4) of the Act.	23
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	26
[18] Clauses 56 and 57	27
Omit the clauses.	28
[19] Clause 60 Fees	29
Insert at the end of the table—	30
Preparation and giving of a marine pollution removal notice under section 202C of the Act	\$466
Deposit of garbage record book	\$40
[20] Clause 61 Decisions that are reviewable by Civil and Administrative Tribunal	31
Omit the clause.	32

[21] Schedule 1 State waters	1
Omit the Schedule.	2
[22] Schedule 4 Modification of Marine Order 93 (Marine pollution prevention—noxious liquid substances) 2014	3
Omit “Appendix 2” from clause 24(1). Insert instead “Appendix II”.	4 5
[23] Schedule 4, clause 25(b)	6
Insert “II” after “Appendix”.	7
[24] Schedule 5 Modification of Marine Order 94 (Marine pollution prevention—packaged harmful substances) 2014	8
Omit “Regulations 2–5” from clause 8(1). Insert instead “Regulations 3–6”.	9 10
[25] Schedule 5, clause 8(2) and (3)	11
Omit “Regulation 4” wherever occurring. Insert instead “Regulation 5”.	12
[26] Schedule 5, clause 8, note	13
Omit the note to the clause. Insert instead—	14
Note. Regulations 3 and 6 of Annex III set out requirements for the packing and stowage of packaged harmful substances. Regulations 4 and 5 of Annex III mention requirements for the transport of packaged harmful substances including the need to comply with the International Dangerous Goods Code (the IMDG Code) for marking and labelling and the preparation of a special list, manifest or stowage plan.	15 16 17 18 19
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.	20 21 22
[27] Schedule 6	23
Omit the Schedule. Insert instead—	24
Schedule 6 Modification of Marine Order 96 (Marine pollution prevention—sewage) 2018	25
(clause 9)	26 27
Note. This Schedule sets out the Marine Order as adopted and modified.	28
Division 1 Preliminary	29
1 Name of Order	30
This Order is <i>Marine Order 96 (Marine pollution prevention—sewage) 2018</i> .	31
1A, 1B [Numbers not used]	32
2 Purpose	33
This Order—	34
(a) gives effect to Annex IV of MARPOL (which deals with prevention of marine pollution by sewage from ships).	35 36

3 [Number not used]	1
4 Definitions	2
In this Order—	3
2012 Guidelines means the <i>2012 Guidelines on implementation of effluent standards and performance tests for sewage treatment plants</i> adopted by IMO Resolution MEPC.227(64), as in force from time to time.	4 5 6
Annex IV means Annex IV of MARPOL.	7
Note 1. Some terms used in this Order are defined in <i>Marine Order 1 (Administration) 2013</i> , including IMO .	8 9
Note 2. A copy of IMO documents mentioned in this Order is available on the IMO website at http://www.imo.org . Information on obtaining copies of IMO documents is also on AMSA's website at http://www.amsa.gov.au .	10 11 12
5, 6 [Numbers not used]	13
Division 2 Systems, equipment etc required by Annex IV	14
7 Sewage systems (MARPOL IV-9)	15
A vessel to which Annex IV applies and section 4.2 of the 2012 Guidelines does not apply must be equipped with—	16 17
(a) a sewage treatment plant, approved by an issuing body, that complies with—	18 19
(i) Regulation 9 of Annex IV, and	20
(ii) for a system installed on a vessel after 31 December 2015—IMO Resolution MEPC.227(64), other than the requirements of section 4.2 of the 2012 Guidelines, and	21 22 23
(iii) for a system installed on a vessel after 31 December 2009 and before 1 January 2016—IMO Resolution MEPC.159(55), and	24 25
(iv) for a system installed on a vessel before 1 January 2010—IMO Resolution MEPC.2(VI), or	26 27
(b) a sewage comminuting and disinfecting system, approved by an issuing body, that complies with Regulation 9 of Annex IV, or	28 29
(c) a holding tank, approved by an issuing body, that complies with Regulation 9 of Annex IV.	30 31
8 [Number not used]	32
9 Standard discharge connections (MARPOL IV-10)	33
(1) The vessel must have a standard discharge connection mentioned in Regulation 10 of Annex IV.	34 35
(2) However, for a passenger vessel, the vessel's discharge pipeline may be fitted with a discharge connection approved by an issuing body (eg a quick-connection coupling).	36 37 38

Division 3

10–17 [Numbers not used] 1

Division 4

18 [Number not used] 2

Division 5

19 [Number not used] 3

Division 6

20–22 [Numbers not used] 4

[28] Schedule 7 5

Omit the Schedule. Insert instead— 6

Schedule 7 Modification of Marine Order 95 (Marine pollution prevention—garbage) 2018 7

(clause 10(1)) 9

Note. This Schedule sets out the Marine Order as adopted and modified. 10

Division 1 Preliminary 11

1 Name of Order 12

This Order is *Marine Order 95 (Marine pollution prevention—garbage) 2018*. 13

1A, 1B [Numbers not used] 14

2 Purpose 15

This Order prescribes matters necessary to give effect to Annex V of MARPOL. 16
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Note. Annex V of MARPOL contains regulations for the prevention of pollution of the sea by garbage from ships. 18
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3 [Number not used] 20

4 Definitions 21

In this Order— 22

inspector means a person appointed as an inspector under section 226 of the *Marine Pollution Act 2012*. 23
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<i>surveyor</i> means a person appointed to be a surveyor under section 190 of the <i>Navigation Act 2012</i> of the Commonwealth.	1 2
Note. Some terms used in this Order are defined in <i>Marine Order 1 (Administration) 2013</i> , including—	3 4
(a) AMSA ,	5
(b) IMO ,	6
(c) Manager, Ship Inspection and Registration ,	7
(d) SOLAS .	8
5 [Number not used]	9
Division 2 Discharge of garbage—prescribed matters	10
6–8 [Numbers not used]	11
Division 3 Garbage record books and management plans	12
9 [Number not used]	13
10 Garbage record book	14
(1) For the purposes of section 138(1) of the <i>Marine Pollution Act 2012</i> , the form that includes the matters set out in Appendix II to Annex V of MARPOL is the prescribed garbage record book.	15 16 17
(2) For the purposes of section 141 of the <i>Marine Pollution Act 2012</i> , each operation or occurrence mentioned in section 4 of Appendix II to Annex V of MARPOL is prescribed.	18 19 20
(3) For the purposes of section 145(1)(b) of the <i>Marine Pollution Act 2012</i> , a surveyor is the prescribed officer.	21 22
11 [Number not used]	23
12 Garbage management plan	24
For the purposes of section 108(1) of the <i>Marine Pollution Act 2012</i> , the garbage management plan must be in a form that includes the matters mentioned in section 4 of the 2012 <i>Guidelines for the Development of Garbage Management Plans</i> set out in the Annex to IMO Resolution MEPC.220(63), as amended from time to time.	25 26 27 28 29
Note. The matters mentioned in these Guidelines are about designating a person in charge of carrying out the plan, and procedures for minimising, collecting, storing, processing and discharging garbage.	30 31 32
2.4 Marine Safety Act 1998 No 121	33
Section 4 Definitions	34
Omit the note to the definition of <i>State waters</i> in section 4(1).	35
Insert instead—	36

Note. Part 10 of the *Interpretation Act 1987* defines **coastal waters of the State** generally as that part of the territorial sea of Australia that is within 3 nautical miles of the coast. The *Marine Pollution Act 2012* defines **State waters** differently for the purposes of that Act. The definition in the *Marine Pollution Act 2012* extends to waters within the limits of the State.

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2.5 Marine Safety Regulation 2016

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[1] Schedule 10 Penalty notice offences—offences under Marine Pollution Act 2012

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Omit the matter relating to section 74(1) or (2). Insert in appropriate order—

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Section 55A(1)(a) and (b)

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Section 202A(5)

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6

Section 202C(5)

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[2] Schedule 10

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Omit the matters relating to sections 157, 158, 160, 161(1), 163, 164 and 172(1).

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