

NORTHERN TERRITORY OF AUSTRALIA

MARINE POLLUTION LEGISLATION AMENDMENT ACT 2020

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Act No. 5 of 2020

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# NORTHERN TERRITORY OF AUSTRALIA

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**Act No. 5 of 2020**

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An Act to amend the *Marine Pollution Act 1999* and the *Marine Pollution Regulations 2003*

[Assented to 9 March 2020]  
[Introduced 17 October 2019]

The Legislative Assembly of the Northern Territory enacts as follows:

## **Part 1 Preliminary matters**

### **1 Short title**

This Act may be cited as the *Marine Pollution Legislation Amendment Act 2020*.

### **2 Commencement**

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

## **Part 2 Amendment of Marine Pollution Act 1999**

### **3 Act amended**

This Part amends the *Marine Pollution Act 1999*.

**4 Section 4 amended (Application)**

Section 4(1) to (3)

*omit, insert*

- (1) This Act applies to:
- (a) all ships in coastal waters; and
  - (b) all ships outside coastal waters that:
    - (i) are intending to enter the Territory; or
    - (ii) are preparing for a voyage to enter the Territory; or
    - (iii) are on a voyage leaving the Territory; or
    - (iv) discharge a pollutant to which section 9 applies.

**5 Section 6 amended (Interpretation)**

- (1) Section 6(1), definitions **agent** and **owner** (*first reference*)

*omit*

- (2) Section 6(1)

*insert*

**agent**, in relation to a ship's owner, see section 8.

**approved form** means a form approved under section 98A.

**owner**, in relation to a ship, see section 8A.

- (3) Section 6(1), at the end

*insert*

*Note for subsection (1)*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

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**6 Section 8 replaced**

Section 8

*repeal, insert*

**8 Meaning of agent**

- (1) An **agent** of a ship owner is the person who, for or on behalf of the owner:
- (a) makes an arrangement for berthing the ship; or
  - (b) makes an arrangement for loading or unloading cargo on or from the ship; or
  - (c) makes an arrangement for the carriage of cargo on or from the ship; or
  - (d) makes an arrangement for the ship to load bunkers or stores; or
  - (e) performs any other function in relation to the ship's husbandry; or
  - (f) makes an arrangement for, or in connection with, repairs of the ship; or
  - (g) performs any other function in relation to the ship under this Act.
- (2) An arrangement made or function performed under subsection (1) is made or performed for a ship that:
- (a) is on a voyage that is intended to enter the Territory; or
  - (b) is in the Territory; or
  - (c) is on a voyage that is intended to leave the Territory; or
  - (d) discharges a pollutant to which section 9 applies.
- (3) An arrangement made or function performed for a ship mentioned in subsection (2)(a) or (c) includes any arrangement made or function performed that is preparatory to the voyage.
- (4) Subject to this section, a person is the agent of a ship owner:
- (a) for the duration of the ship's voyage to enter the Territory, including any preparatory period for the voyage; or

- (b) for the time the ship is in the Territory; or
  - (c) for the duration of the ship's voyage to leave the Territory, including any period of the voyage that takes place outside coastal waters.
- (5) The person or the ship owner may give the Chief Executive Officer written notice that:
- (a) the person is no longer the ship owner's agent; or
  - (b) the person will not be the ship owner's agent by a time specified in the notice.
- (6) A notice given under subsection (5) by the person must:
- (a) be in the approved form; and
  - (b) include evidence that the person is no longer the ship owner's agent or will not be the ship owner's agent by the time specified; and
  - (c) if the person's appointment as the ship owner's agent expired – specify the date for which the person's appointment expired; and
  - (d) if known to the person – specify the person who is or will be appointed to be the ship owner's agent after the person's appointment expired or expires.
- (7) A notice given under subsection (5) by the ship owner must:
- (a) be in the approved form; and
  - (b) specify the person who is or will be appointed to be the ship owner's agent after the agent's appointment expired or expires.

#### **8A Meaning of *owner***

- (1) An ***owner***, in relation to a ship, means any of the following:
- (a) a person who owns the ship;
  - (b) a person who exercises, or purports to exercise, a power of an owner, or a person who performs, or purports to perform, a function of an owner;
  - (c) a person who operates the ship or causes or allows the ship to be operated by someone else;

- (d) a person who has exclusive possession of the ship;
  - (e) a person who has overall control and management of the ship;
  - (f) a person who is a demise or sub-demise charterer of the ship;
  - (g) a person who is a time charterer of the ship;
  - (h) a person who has a beneficial interest in the ship;
  - (i) a person who is registered as the owner of the ship.
- (2) Subsection (1) applies irrespective of whether the ship is mortgaged, chartered, leased or hired.

**7 Section 41 amended (Waste management plans, garbage record book, signage)**

Section 41(1)

*omit*

all words from "the prescribed" to "MARPOL"

*insert*

placards in relation to garbage disposal requirements in the approved form

**8 Section 50 amended (Duty to report certain incidents)**

Section 50(3)

*omit*

a form approved by the Chief Executive Officer

*insert*

the approved form

**9 Section 66 amended (Procedure after detention of ship)**

Section 66

*omit*

a form approved by the Chief Executive Officer

*insert*

the approved form

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**10 Section 92 replaced**

Section 92

*repeal, insert*

**92 No time limit for commencing proceedings**

A proceeding for an offence against this Act may be brought at any time.

**11 Section 97 amended (Service of documents)**

(1) Section 97(2)

*omit, insert*

(2) If a document is required or permitted to be served on a ship's master and it is impracticable to serve the document on the ship's master, the document may be served on:

(a) the ship's owner, including a previous owner of the ship; or

(b) the ship owner's agent, including a previous agent of the owner of the ship.

(2) Section 97(3)(a)

*omit*

ship;

*insert*

ship, including a previous owner of the ship; or

(3) Section 97(3)(c), after "agent"

*insert*

, including a previous agent of an owner of the ship

(4) After section 97(4)

*insert*

(5) In this section:

**previous owner**, in relation to a ship, means the owner of the ship at the time the conduct occurred that is the subject of the document being served.



**previous agent**, in relation to a ship's owner, means the ship owner's agent at the time the conduct occurred that is the subject of the document being served.

**12 Section 98A inserted**

After section 98

*insert*

**98A Approved forms**

The Chief Executive Officer may approve forms for this Act.

**Part 3 Amendment of Marine Pollution Regulations 2003**

**13 Regulations amended**

This Part amends the *Marine Pollution Regulations 2003*.

**14 Regulation 28 amended (Ships to display placards)**

Regulation 28(2)

*omit, insert*

- (2) A placard referred to in subregulation (1) is to be in the approved form.

**15 Regulation 37 amended (Notification of reportable incident)**

- (1) Regulation 37(3)(a)

*omit, insert*

- (a) the Chief Executive Officer;

- (2) Regulation 37(3)(c) to (e)

*omit*

- (3) Regulation 37(4)

*omit*

all words from "contain" to "Schedule 3"

*insert*

be in the approved form

**16 Schedules 2 and 3 repealed**

Schedules 2 and 3

*repeal*

**Part 4 Act further amended**

**17 Act further amended**

The Schedule has effect.

**Part 5 Repeal of Act**

**18 Repeal of Act**

This Act is repealed on the day after it commences.

**Schedule Marine Pollution Act 1999 further amended**

section 17

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Provision	Amendment	
	<i>omit</i>	<i>insert</i>
sections 10, 48, 49 and 54, heading	<b>CEO</b>	<b>Chief Executive Officer</b>

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