

Australasian Marine Pollution Laws

Second edition

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Preface

This book outlines the international conventions and Australian and New Zealand legislation on the protection and preservation of the marine environment from ship pollution. My aim has been to write a book from which any person interested in the topic could gain an overall understanding of the relevant international conventions and laws, and regulatory structures for Australia and New Zealand. Of course, they would then need to research the details of the convention, law, guideline or regulation to understand the detail, but the book will give them a good start.

This is the second edition of this book and it replaces my earlier book *Marine Pollution Laws of the Australasian Region*, published by The Federation Press in 1994. It was, and still is, the only whole book dedicated to Australian and NZ laws on this topic. The second edition has been completely re-written as so much had changed since the first edition was done. I hope that it may prove helpful to my colleagues in law, shipping, regulation, administration, fisheries, defence, marine science and in the many areas of teaching, learning and marine scholarship.

The protection of the marine environment is an important topic as the threats to the environment from pollution are significant and not least amongst these are the threats to the marine aspects of it. The oceans, from one point of view, are the major determinants of the weather and the environmental background for the whole earth. Protecting and caring for them are important. One new player caring for the marine environment is the not-for-profit organisation the Australian Marine Environmental Association (AUSMEPA) which, with its international connections, is a growing force in the shipping and marine environment protection fields. Its details are available on its website at <<http://www.ausmepa.org.au/home>>.

The book begins with a chapter setting out the background to the topic, including the present sources of pollution of the coastal seas. It then proceeds to deal with the UN international conventions that touch on the marine environment and from there to two chapters on the IMO conventions. A short chapter about marine salvage follows. Then the book addresses the complexities of the Australian offshore jurisdiction before moving on to the Australian Commonwealth laws, followed by the laws of the States, the Northern Territory and New Zealand. Finally, it touches on some of the regulatory governance and infrastructure. There are two appendices, which show the status of the IMO conventions in early 2007 (as shown on its website).

Acknowledgements

It has been an enormous task researching and summarising the huge number of conventions, guidelines, statutes, rules, regulations, articles and books. The hard copies of the research material, if piled up, would stand about two metres high. It has been difficult to compress this amount of material into the one book. I would like to acknowledge the assistance I have had in this task although some of this acknowledgement is also set out in the text in footnotes. The early research assistance came from the University of Queensland scholar Ryan Goss (BA Hons 1st and University Medal; LLB Hons 1st and University Medal; 2007 Queensland Rhodes Scholar) and Nick Luke (BA Hons 1st and University Medal; LLB Hons 1st; 2006 Queensland Rhodes Scholar). Ryan was the 2005 Research Assistant for the Marine and Shipping Law Unit, TC Beirne School of Law and assisted me during most of 2005. Nick assisted at the end of 2005 and early in 2006 with preparing the index and other meticulous aspects of the final research and production. I am most grateful to them both and it was stimulating to work with them. I would also like to acknowledge the assistance of Michael Wells (BA, LLB student) who has been of great assistance with the final research and proofing of the manuscript at the end of 2006 and early 2007.

For the NZ component, I am most grateful to my colleague Professor Paul Myburgh, University of Auckland, and Mr Tim Workman, Maritime NZ, both of whom read a draft of Chapter 10 and made many helpful suggestions about improving and correcting the NZ parts of the script. For careful and most useful appraisals on a number of the Australian chapters I am indebted to Mr Paul Nelson, Australian Maritime Safety Authority, who brought his long experience in this area to bear. This is very much the case, also, with Mr Jeff Hardy, of Maritime Safety Queensland, who has kindly read through most of the manuscript and given me the benefit of his great knowledge of maritime law and indicated many improvements. My indebtedness also extends to Mr James Aston, Project Manager, Shipping, Great Barrier Reef Marine Park Authority for assistance with Chapter 9.

More generally I would like to pay tribute to the professional background support from professional colleagues in the field of marine pollution from ships. Mr Robert Alchin, Commonwealth Department of Transport and Regional Services, and Mr John Kavanagh, Maritime Safety Queensland, have always been reliable and helpful. I am indebted to all of the above and, indeed, to many more of my professional colleagues for their assistance and support.

I thank my colleagues at the Marine and Shipping Law Unit, TC Beirne School of Law, for their intellectual comradeship. We often talk about shipping, law of the sea and international law issues, which discussions are of great assistance. The TC Beirne School of Law provided the

office and facilities during 2005 and early 2006 and the Centre for Marine Studies did likewise during my work in 2006 and 2007. This support has enabled me to have access to support staff and facilities that have allowed me to research and write.

For permission to use the tables, maps and diagrams in this book I would like to acknowledge my thanks to the following:

- (a) for the statistics on oil spills in Chapter 1 to the International Tanker Owners Federation Ltd (ITOPF) and, in particular, its managing director Dr Tosh Moller;
- (b) for the maps in Chapters 6 and 9 to Geoscience Australia and, in particular, Dr Bill Hirst and its copyright manager Mr Mike Pasfield.

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To Mr Chris Holt and Ms Kathy Fitzhenry and others from The Federation Press, I express my thanks for their assistance in preparing the book for publication. I have worked with Chris and Kathy and the Federation Press team over a number of books and dealing with them has always been a pleasure. They are competent, efficient and cheerful and I am glad to have enjoyed a cordial relationship with them over these many years.

Sources

I should say something about the sources for material for my research. I have carefully referred to the relevant international conventions and the legislation for Australia and New Zealand. I have not, however, attempted to deal with the myriad of cases that pour out of the many international and national courts, except where they have been vital to the text. These, as well as the many amendments that come at a great rate

from the IMO, the parliaments and the government departments, all regularly alter the conventions, laws, regulations, rules and guidelines so the situation requires careful research to check for amendments. The overseas scholarly writings are impressive and readers may need to refer to them for their own researches. However, I have mentioned relevant Australian and New Zealand texts in the footnotes where they are appropriate. In relation to overseas scholarly publications, the recent book by my maritime colleague Professor Edgar Gold, *Guard Handbook on Protection of the Marine Environment*, 3rd ed, 2006 is, in some ways, a companion book. Its coverage extends and deepens the international aspects and sets out the United States and United Kingdom situations, which are beyond the compass of my own book. Edgar now lives mainly in Brisbane and I enjoy having such a knowledgeable and helpful colleague nearby.

Finally, this area of the law of the protection of the marine environment, especially from shipping, is one for which I have a particular fondness and it has been a pleasure for me to write about it. It is too much to think that it may be a pleasure but I do hope that its publication may prove of assistance to others.

Michael White
University of Queensland
February 2007

Table of Acronyms and Abbreviations

AFZ	Australian Fishing Zone
AIP	Australian Institute of Petroleum
AMOSC	Australian Marine Oil Spill Centre
AMSA	Australian Maritime Safety Authority
AQIS	Australian Quarantine and Inspection Service
CITES	Convention on International Trade in Endangered Species of Would Fauna and Flora 1973
CLC	International Convention on Civil Liability for Oil Pollution Damage
CLCS	Commission on the Limits of the Continental Shelf.
CMI	Comité Maritime International
CRISTAL	Contract Regarding an Interim Supplement to Tanker Liability for Oil Pollution 1971
EEZ	Exclusive Economic Zone
GBR	Great Barrier Reef
GBRMPA	Great Barrier Reef Marine Park Authority
GPA	Global Action Plan for the Protection of the Marine Environment from Land-based Activities
GESAMP	Joint Group of Experts on the Scientific Aspects of Marine Pollution
ICJ	International Court of Justice
ILO	International Labour Organization
IMCO	International Maritime Consultative Organization (see also IMO)
IMLI	International Maritime Law Institute
IMO	International Maritime Organization
INMARSAT	International Mobile Satellite Organization
ISU	International Salvage Union
ITLOS	International Tribunal for the Law of the Sea
ITOPF	International Tanker Owners Pollution Federation Ltd
IUA	International Unitisation Agreement for Greater Sunrise
JPDA	Joint Petroleum Development Area
LLMC	Limitation of Liability for Maritime Claims Convention
LOF	Lloyd's Open Form
MARPOL	International Convention for the Prevention of Pollution by Ships
MEPC	Marine Environment Protection Committee

MPA	Marine Pollution Act 1987 (NSW)
MSA	Maritime Safety Authority of New Zealand (now Maritime New Zealand)
MSQ	Maritime Safety Queensland
MTA	Maritime Transport Act 1994 (NZ)
NOO	National Oceans Office
OILPOL 54	International Convention for the Prevention of Oil Pollution 1954
PIC	Pacific Island Country
PSC	Port State Control
PSSA	Particularly Sensitive Sea Area
RMA	Resource Management Act 1991 (NZ)
SAR	Search and Rescue
SCOPIC	Special Compensation Protection and Indemnity Clause
SCR	Special Casualty Representative
SDR	Special Drawing Right
SPREP	South Pacific Regional Environment Programme
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978
TOMPA	Transport Operations (Marine Pollution) Act 1995 (Qld)
TOMSA	Transport Operations (Marine Safety) Act 1994 (Qld)
TOVALOP	Tanker Owners' Voluntary Agreement Concerning Liability for Oil Pollution 1969
UCH	UNESCO Convention on Underwater Cultural Heritage 2001
UNCED	United Nations Conference on Environment and Development
UNCLOS	United Nations Convention on the Law of the Sea, 1982
UNEP	United Nations Environmental Program
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNTAET	United Nations Transitional Administration in East Timor
VLCC	Very Large Crude Carrier
WMU	World Maritime University

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