

**Reprint
as at 1 January 2017**



Maritime Transport (Oil Pollution Levies) Order 2013
(SR 2013/154)

Maritime Transport (Oil Pollution Levies) Order 2013: revoked, on 1 January 2017, by clause 22 of the Maritime Transport (Oil Pollution Levies) Order 2016 (LI 2016/276).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 20th day of May 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 333(1) of the Maritime Transport Act 1994, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister (whose recommendation has been made in accordance with section 333(4) of that Act), makes the following order.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry of Transport.

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Order

1 Title

This order is the Maritime Transport (Oil Pollution Levies) Order 2013.

2 Commencement

This order comes into force on 1 July 2013.

3 Interpretation

(1) In this order, unless the context otherwise requires,—

Act means the Maritime Transport Act 1994

capability levy means an oil pollution levy imposed to meet, or contribute to, the expenditure incurred by the New Zealand Oil Pollution Fund in order to increase New Zealand's oil pollution response capability and to improve oil pollution response systems

capital equipment levy means an oil pollution levy imposed to meet, or contribute to, the capital expenditure incurred by the New Zealand Oil Pollution Fund in replacing, upgrading, and purchasing new oil pollution response equipment

contributing ship has the meaning given to it by section 329 of the Act, but does not include a ship that—

- (a) is 24 metres or less in length; or
- (b) operates exclusively in fresh water

Director means the Director of Maritime New Zealand

foreign, in relation to a ship, means a ship that is not a New Zealand ship

FPSO means a floating vessel used in the production, storage, and offloading of oil

gross tonnage or **gross tons** means, in relation to a ship, the gross tonnage of that ship determined or recognised in accordance with the provisions of the Act or any maritime rules

in bulk means, in relation to non-persistent and persistent oil, loaded onto or discharged from a ship by a pipeline system

MARPOL has the meaning given to it by section 225 of the Act

master—

- (a) means any person having command or charge of any ship; but
- (b) does not include a pilot

New Zealand fishing vessel has the meaning given to it by section 2(1) of the Fisheries Act 1996

oil pollution levy means an oil pollution levy imposed by this order, and **levy** has a corresponding meaning

oil tanker means a ship carrying oil in bulk as cargo

out of commission means, in relation to a ship,—

- (a) being incapable of operation as a result of being wrecked, stranded, or disabled while—
 - (i) in a New Zealand port; or
 - (ii) on the New Zealand coast; or
 - (iii) proceeding from one New Zealand port to another; or
- (b) being prohibited from operation by the Director exercising his or her powers under the Act; or
- (c) being prevented from operation by an employment relationship problem (for example, a strike or a lockout)

persistent oil means crude oil, fuel oil, lubricating oil, heavy diesel oil, or any other persistent oil

year means the 12-month period beginning on 1 July in any year.

- (2) Terms used in this order which are defined in section 222 or section 329 of the Act have the meanings given to them by that section.

Clause 3(1) **persistent oil**: replaced, on 25 October 2013, by clause 4 of the Maritime Transport (Oil Pollution Levies) Amendment Order 2013 (SR 2013/431).

4 Oil pollution levies: contributing ships

- (1) An oil pollution levy for each year is imposed, on 1 July in each year, on the owner and master of every contributing ship specified in the first column of the Schedule.

- (2) The oil pollution levy imposed by subclause (1) is calculated, in the case of a contributing ship that is an oil tanker,—
 - (a) in relation to the gross tonnage of the ship, by multiplying the appropriate rate of levy specified in the second column of the Schedule by the gross tonnage of the ship; and
 - (b) in relation to oil carried as cargo, by multiplying the appropriate rate of levy specified in the second column of the Schedule by the total number of tonnes of—
 - (i) persistent oil carried during the relevant year; and
 - (ii) non-persistent oil carried during the relevant year.
- (3) The oil pollution levy imposed by subclause (1) is calculated, in the case of any contributing ship other than an oil tanker, by multiplying the appropriate rate of levy specified in the second column of the Schedule by the gross tonnage of the ship.
- (4) The oil pollution levy imposed under this clause is payable,—
 - (a) in the case of a New Zealand ship, annually; and
 - (b) in the case of a New Zealand ship that is an oil tanker, at the beginning of the applicable year based on an estimate of oil carried as cargo and reconciled with the actual amount at the end of the year; and
 - (c) in the case of a foreign ship, for each entry of that ship into a New Zealand port from outside the harbour limits of that port.

5 Oil pollution levies: contributing oil sites

- (1) An oil pollution levy for each year is imposed, on 1 July in each year, on the owner of each of the following classes of contributing oil sites as follows:
 - (a) in the case of each FPSO, \$85,186:
 - (b) in the case of each offshore installation that is not an FPSO, \$8,888.89:
 - (c) in the case of each oil pipeline, \$8,888.89:
 - (d) in the case of each exploration oil well, \$8,888.89.
- (2) The oil pollution levy imposed under this clause is payable annually.

6 Capability levies and capital equipment levies

- (1) In addition to the levies imposed under clauses 4 and 5, capability levies and capital equipment levies are imposed for each of the years 2013, 2014, and 2015.
- (2) The levies imposed by subclause (1) are calculated, and payable, in respect of ships, in the same manner as that provided for under clause 4, except that references to the second column of the Schedule must be read as references to the third column of the Schedule (for the purposes of calculating the capability

levy) and the fourth column of the Schedule (for the purposes of calculating the capital expenditure levy).

- (3) The levies imposed by subclause (1) are imposed, on 1 July in each of the years specified in that subclause, on the owner of each of the following classes of contributing oil sites as follows:
 - (a) in the case of each FPSO,—
 - (i) \$7,548 for the capability levy; and
 - (ii) \$12,266 for the capital expenditure levy:
 - (b) in the case of each offshore installation that is not an FPSO,—
 - (i) \$107 for the capability levy; and
 - (ii) \$174 for the capital expenditure levy:
 - (c) in the case of each oil pipeline,—
 - (i) \$86 for the capability levy; and
 - (ii) \$140 for the capital expenditure levy:
 - (d) in the case of each oil exploration well,—
 - (i) \$24 for the capability levy; and
 - (ii) \$39 for the capital expenditure levy.
- (4) The levies imposed under subclause (3) are payable annually.

7 Proportional payments where liability for oil pollution levy arises after 1 July

- (1) This clause applies to—
 - (a) every contributing ship that is a New Zealand ship, including a New Zealand fishing vessel, whose first entry into a New Zealand port was after 1 July in any year; and
 - (b) every contributing oil site that commenced operation after 1 July in any year.
- (2) Despite subclauses (3) and (4), an oil pollution levy for each year is imposed—
 - (a) on the owner and master of any contributing ship to which subclause (1)(a) applies on the day of the ship's first entry into a New Zealand port; and
 - (b) on the owner of any oil site to which subclause (1)(b) applies on the day the oil site commences operation.
- (3) The oil pollution levy imposed by subclause (2) must be calculated in accordance with subclause (4).
- (4) The amount of the levy must be calculated in accordance with the following formula:

$$\frac{a \times b}{365}$$

where—

- a is the amount of the levy that would be imposed—
 - (a) by clause 4 if clause 4 applied to the contributing ship; or
 - (b) by clause 5 if clause 5 applied to the oil site
- b is the number of days remaining in the year, from and including the date on which the levy is imposed under subclause (2).

8 Refunds on change of use

- (1) Despite clauses 4 and 7, the Director may refund an amount in accordance with subclause (2) where—
 - (a) an oil pollution levy imposed by clause 4 has been paid in respect of a contributing ship for any year; and
 - (b) on the application of the owner or master, the Director is satisfied that, at the date of the application, the use of the ship is such that it is no longer in use as a ship described in clause 7(1)(a).
- (2) The amount of the refund must be calculated in accordance with the following formula:

$$\frac{a \times b}{365}$$

where—

- a is the amount of the levy that has been paid
- b is the number of days remaining in the year, from and including the date of the application.

9 GST

The amounts payable as oil pollution levies, capability levies, or capital expenditure levies under this order are exclusive of any goods and services tax.

10 Elections to pay annual levies

- (1) This clause applies to the owner or master of a contributing ship that—
 - (a) is a foreign ship or foreign oil tanker; and
 - (b) does not carry a cargo of more than 2 000 tonnes of oil in bulk.
- (2) A person to whom this clause applies may, instead of paying the levy in accordance with clauses 4(4)(c) and 6(2) for each entry to a New Zealand port, elect to pay the levy in respect of the contributing ship for any year—
 - (a) on the basis specified in clause 4(4)(c) and 6(2); and

- (b) at the rates applying in respect of the same category of New Zealand ship.
- (3) Despite clauses 4(4) and 6(2), where the owner or master of a contributing ship specified in subclause (1) has paid the oil pollution levy specified in subclause (2) in respect of the contributing ship for any year, no levy is payable under clause 4(4) in respect of any entry by the contributing ship into a New Zealand port from outside the harbour limits of that port during that year.

11 Refunds for ships laid up

Despite clauses 4, 7, and 10, where an oil pollution levy has been paid under any of those clauses in respect of a contributing ship for a year and, on the application of the owner or master of the contributing ship, the Director is satisfied that for a period of not less than 30 consecutive days during that year the contributing ship has been out of commission, or laid up for survey or repairs, the Director may refund to the applicant an amount calculated in accordance with the following formula:

$$\frac{a \times b}{365}$$

where—

- a is the amount of the levy that has been paid
- b is the number of consecutive days for which the contributing ship has been out of commission or laid up.

12 Refunds for ships not entering port during year

- (1) The owner or master of a contributing ship in respect of which an oil pollution levy has been paid under clause 4 or 10 may apply to the Director for a refund of that levy after the expiry of any year if the contributing ship has not entered a New Zealand port during that year.
- (2) The Director may, on an application under subclause (1), refund the levy to the applicant if the Director is satisfied that the contributing ship has not entered a New Zealand port during the year for which a refund is sought.

13 Refunds for certain oil sites

Despite clause 4 or 5, where an oil pollution levy has been paid under that clause in respect of a contributing oil site for a year and, on the application of the owner of the contributing oil site, the Director is satisfied that for a period of not less than 30 consecutive days during that year the contributing oil site has not been operating, the Director may refund to the applicant an amount calculated in accordance with the following formula:

$$\frac{a \times b}{365}$$

where—

- a is the amount of the levy that has been paid
- b is the number of days for which the contributing oil site has not been operating.

14 Right to deduct other levies from refunds

Without affecting any other method of recovery, the Director may deduct from any refund due in accordance with this order the amount of any other oil pollution levy, capability levy, or capital expenditure levy owing and unpaid on or after the date of the application for the refund.

15 Ships putting to sea because of adverse weather conditions

Despite any other provision in this order, where a contributing ship that has entered a New Zealand port is compelled by adverse weather conditions to put to sea, and later re-enters that port in order to complete any discharging or loading of passengers or cargo that was interrupted by its putting to sea, no oil pollution levy, capability levy, or capital expenditure levy is payable in respect of that re-entry.

16 Liability for levies

Where any oil pollution levy, capability levy, or capital expenditure levy is payable in respect of a contributing ship, the owner and master are each liable to pay the levy.

17 When levies payable and collection of payments

- (1) Except as expressly provided otherwise, the due date for payment of any levy imposed under this order is the 20th day of the month after the date on which an invoice for the levy is issued.
- (2) All levies imposed under this order must be paid to the Director.

18 Levies may be paid by instalment

- (1) This clause applies to a person if, in the same year,—
 - (a) the person is liable for—
 - (i) any levy or levies under this order; and
 - (ii) any marine safety charge or charges under the Marine Safety Charges Regulations 2000; and
 - (b) the total amount payable for the levy or levies and charges for the year is not less than \$50,000.
- (2) A person to whom subclause (1) applies may apply to the Director for authority to pay the levies and the marine safety charge or charges for that year jointly, by monthly or quarterly instalments.

- (3) An application under subclause (2) must be made in accordance with regulations 10A to 10D of the Marine Safety Charges Regulations 2000.

19 Revocation

The Oil Pollution Levies Order 1998 (SR 1998/356) is revoked.

Schedule Rates of levy

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Ship	Oil pollution levy	Capability levy	Capital expenditure levy
New Zealand passenger and cargo ships, harbour tugs, and New Zealand oil tankers	301.81 cents per gross ton of the vessel	26.83 cents per gross ton of the vessel	41.99 cents per gross ton of the vessel
New Zealand oil tankers (oil carried as cargo)	73.91 cents per tonne of persistent oil carried as cargo	6.57 cents per tonne of persistent oil carried as cargo	10.29 cents per tonne of persistent oil carried as cargo
	10.29 cents per tonne of non-persistent oil carried as cargo	0.92 cents per tonne of non-persistent oil carried as cargo	1.43 cents per tonne of non-persistent oil carried as cargo
New Zealand fishing vessel	133.49 cents per gross ton of the vessel	11.90 cents per gross ton of the vessel	18.62 cents per gross ton of the vessel
Foreign passenger and cargo ships and foreign oil tankers	0.81 cents per gross ton of the vessel	0.07 cents per gross ton of the vessel	0.12 cents per gross ton of the vessel
Foreign oil tankers (oil carried as cargo)	29.99 cents per tonne of persistent oil carried as cargo	2.67 cents per tonne of persistent oil carried as cargo	4.17 cents per tonne of persistent oil carried as cargo
	6.72 cents per tonne of non-persistent oil carried as cargo	0.60 cents per tonne of non-persistent oil carried as cargo	0.93 cents per tonne of non-persistent oil carried as cargo

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 23 May 2013.

Reprints notes

1 *General*

This is a reprint of the Maritime Transport (Oil Pollution Levies) Order 2013 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Maritime Transport (Oil Pollution Levies) Order 2016 (LI 2016/276): clause 22

Maritime Transport (Oil Pollution Levies) Amendment Order 2013 (SR 2013/431)