

**Reprint
as at 1 July 2013**



Oil Pollution Levies Order 1998

(SR 1998/356)

Oil Pollution Levies Order 1998: revoked, on 1 July 2013, by clause 19 of the Maritime Transport (Oil Pollution Levies) Order 2013 (SR 2013/154).

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 16th day of November 1998

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 by and with the advice and consent of the Executive Council, and on the recommendation of the Minister of Transport whose recommendation has been made at the request and with the concurrence of the Maritime Safety Authority and who is satisfied that—

- (a) the planned expenditure from the New Zealand Oil Pollution Fund is reasonable and the levies recommended will enable that expenditure to be met without reducing the level of re-

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This order is administered by the Ministry of Transport.

serves referred to in section 332(6) of the Maritime Transport Act 1994; and

(b) the Maritime Safety Authority has consulted the Oil Pollution Advisory Committee as required by section 334 of that Act,—
makes the following order.

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Order

1 Title and commencement

- (1) This order may be cited as the Oil Pollution Levies Order 1998.
- (2) This order comes into force on the 28th day after the date of its notification in the *Gazette*.

2 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
the Act means the Maritime Transport Act 1994
coastal trade ship means a ship carrying coastal cargo as defined in, and in accordance with, section 198 of the Act
Director means the Director of Maritime New Zealand
gross tonnage or **gross tons**, in relation to a ship, means the gross tonnage of that ship determined or recognised in accordance with the provisions of the Act or any maritime rules
in bulk, in relation to persistent oil, means loaded on to or discharged from a ship by a pipeline system
Master means any person (except a pilot) having command or charge of any ship
New Zealand fishing boat means a fishing vessel registered under Part 4 of the Fisheries Act 1983 or Part 6 of the Fisheries Act 1996
oil pollution levy and **levy** mean an oil pollution levy imposed by this order
out of commission, in relation to a ship, means—
 - (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 2(1) **Director**: amended, on 1 July 2005, by section 11(4) of the Maritime Transport Amendment Act 2004 (2004 No 98).

Clause 2(1) **out of commission**: inserted, on 15 July 2004, by clause 3(1) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

Clause 2(1) **year**: substituted, on 15 July 2004, by clause 3(2) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

3 Oil pollution levies on coastal trade ships and New Zealand fishing boats

- (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 that is a coastal trade ship or a New Zealand fishing boat.
- (2) The oil pollution levy imposed by subclause (1) is, in the case of a contributing ship that is a coastal trade ship, calculated at the following rate:
- (a) 111 cents per gross ton of the contributing ship; and
 - (b) either—
 - (i) 837 cents per gross ton of the contributing ship that is a carrier of persistent oil as cargo; or
 - (ii) 419 cents per gross ton of the contributing ship that is a carrier of oil (other than persistent oil) as cargo.
- (3) The oil pollution levy imposed by subclause (1) in the case of a contributing ship that is a New Zealand fishing boat is 70 cents per gross ton of the contributing ship.

- (4) *[Revoked]*

Clause 3(1): amended, on 15 July 2004, by clause 4(1) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

Clause 3(4): revoked, on 15 July 2004, by clause 4(2) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

4 Oil pollution levies on offshore oil installations and oil pipelines

- (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 an offshore oil installation that is producing, processing, storing, or transferring oil, \$8,889;
 - (b) in the case of an oil pipeline, \$8,889;
 - (c) in the case of an offshore oil installation used or constructed for the purposes of exploring for oil, \$8,889 for each oil well drilled by that installation.

(2) *[Revoked]*

Clause 4(1): amended, on 15 July 2004, by clause 5(1) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

Clause 4(2): revoked, on 15 July 2004, by clause 5(2) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

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

- (1) This clause applies to—
- (a) every contributing ship—
 - (i) that is a coastal trade ship or a New Zealand fishing boat; and
 - (ii) whose first entry into a New Zealand port was after 1 July in any year; and
 - (b) every offshore oil installation or oil pipeline described in clause 4(1)(a) to (c) that commenced operation after 1 July in any year.
- (2) Despite clauses (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 offshore oil installation or oil pipeline to which subclause (1)(b) applies on the day the oil installation or oil pipeline 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 3 as if clause 3 applied to the contributing ship; or
 - (b) by clause 4 as if clause 4 applied to the offshore oil installation or oil pipeline
- b is the number of days remaining in the year, from and including the day on which the levy is imposed under subclause (2).

Clause 5: substituted, on 15 July 2004, by clause 6 of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

6 Refunds on change of use

- (1) Despite clause 3 or clause 5, the Director may refund an amount in accordance with subclause (2) where—
- (a) an oil pollution levy imposed by that clause 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 contributing ship is such that it is no longer a coastal trade ship or a New Zealand fishing boat.
- (2) The amount of the refund must be calculated in accordance with the following formula:

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

where—

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

Clause 6(1): amended, on 15 July 2004, by clause 7 of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

7 Other contributing ships

- (1) An oil pollution levy is imposed on the owner and master of a contributing ship (that is not a coastal trade ship or a New Zealand fishing boat) in the case of each entry of that ship into a New Zealand port from outside the harbour limits of that port.
- (2) An oil pollution levy imposed by subclause (1) is calculated at the rate of—
 - (a) 1.11 cents per gross ton of the contributing ship; and
 - (b) either—
 - (i) 9.78 cents per tonne of persistent oil that is carried or loaded as cargo; or
 - (ii) 4.44 cents per tonne of oil (other than persistent oil) that is carried or loaded as cargo.
- (3) Despite subclauses (1) and (2), if in the case of a contributing ship entering into a New Zealand port, oil (whether or not it is persistent oil) is both carried and loaded as cargo, the owner and master of the ship must (in addition to the amount of oil pollution levy calculated at the rate specified in subclause 2(a)) be required only to pay the higher of the following amounts:
 - (a) the amount of oil pollution levy calculated at the appropriate rate specified in subclause 2(b) in respect of the oil that is carried as cargo:
 - (b) the amount of oil pollution levy calculated at the appropriate rate specified in subclause 2(b) in respect of oil that is loaded as cargo.

8 Goods and services tax

The amounts payable as oil pollution levies under this order are exclusive of any goods and services tax.

9 Elections to pay annual levies

- (1) The owner or master of a contributing ship that—
 - (a) is not a coastal trade ship or a New Zealand fishing boat; and
 - (b) does not carry a cargo of more than 2 000 tonnes of oil (whether or not it is persistent oil) in bulk—may elect to pay, in respect of the contributing ship for any year, the oil pollution levy specified in subclause (3) instead

of any levies that may be payable under clause 7 in respect of the contributing ship during that year.

- (2) Despite clause 7, where the owner or master of a contributing ship specified in subclause (1) has paid the oil pollution levy specified in subclause (3) in respect of the contributing ship for any year, no levy is payable under clause 7 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.
- (3) The oil pollution levy payable by a contributing ship for any year under this clause is calculated at the rate of 111 cents per gross ton of the contributing ship.

10 Refunds for ships laid up

Despite clause 3 or clause 5 or clause 9, 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:

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

where—

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

Clause 10: amended, on 15 July 2004, by clause 8(a) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

Clause 10: amended, on 15 July 2004, by clause 8(b) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

Clause 10: amended, on 15 July 2004, by clause 8(c) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

Clause 10 formula item b: amended, on 15 July 2004, by clause 8(d) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

11 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 3 or clause 9 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.

12 Refunds for certain offshore oil installations and oil pipelines

Despite clause 4 or clause 5, where an oil pollution levy has been paid under that clause in respect of an offshore oil installation or oil pipeline for a year and, on the application of the owner of the offshore oil installation or oil pipeline, as the case may be, the Director is satisfied that for a period of not less than 30 consecutive days during that year the offshore oil installation or oil pipeline 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; and
- b is the number of days for which the offshore oil installation or oil pipeline has not been operating.

Clause 12: amended, on 15 July 2004, by clause 9(a) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

Clause 12 formula item b: amended, on 15 July 2004, by clause 9(b) of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

13 Right to deduct other levies from refunds

Without affecting any other method of recovery, the Director may deduct from any refund under clause 6, or clause 10, or clause 11, or clause 12 in respect of a contributing ship, offshore oil installation, or oil pipeline, as the case may be, the

amount of any other oil pollution levies owing and unpaid in respect of the contributing ship, offshore oil installation, or oil pipeline, on or after the date of the application for the refund.

14 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 is payable in respect of that re-entry.

15 Liability for levies

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

15A 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.

Clause 15A: inserted, on 15 July 2004, by clause 10 of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

15B 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 oil pollution 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 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 oil pollution levy or 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.

Clause 15B: inserted, on 15 July 2004, by clause 10 of the Oil Pollution Levies Amendment Order 2004 (SR 2004/208).

16 Revocations

The orders specified in the Schedule are revoked.

Schedule Orders revoked

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Oil Pollution Levies Order 1978 (SR 1978/35)

Oil Pollution Levies Order 1978, Amendment No 3 (SR 1986/239)

Oil Pollution Levies Order 1978, Amendment No 4 (SR 1996/155)

Marie Shroff,
Clerk of the Executive Council.

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Notes**1 *General***

This is a reprint of the Oil Pollution Levies Order 1998. The reprint incorporates all the amendments to the order as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Maritime Transport (Oil Pollution Levies) Order 2013 (SR 2013/154): clause 19

Maritime Transport Amendment Act 2004 (2004 No 98): section 11(4)

Oil Pollution Levies Amendment Order 2004 (SR 2004/208)
