



# Oil Pollution Levies Amendment Order 2004

Dame Sian Elias, Administrator of the Government

## Order in Council

At Wellington this 5th day of July 2004

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 333(1) of the Maritime Transport Act 1994, Her Excellency the Administrator of the Government, acting on the advice and with the 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 reserves 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

- (1) This order is the Oil Pollution Levies Amendment Order 2004.
- (2) In this order, the Oil Pollution Levies Order 1998<sup>1</sup> is called “the principal order”.

<sup>1</sup> SR 1998/356

### 2 Commencement

This order comes into force on 15 July 2004.

### 3 Interpretation

- (1) Clause 2(1) of the principal order is amended by inserting, after the definition of **oil pollution levy**, the following definition:

“**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 1 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)”.

- (2) Clause 2(1) of the principal order is amended by revoking the definition of **year**, and substituting the following definition:

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

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

- (1) Clause 3(1) of the principal order is amended by inserting, after the words “is imposed”, the words “, on 1 July in each year,”.
- (2) Clause 3(4) of the principal order is revoked.

**5 Oil pollution levies on offshore oil installations and oil pipelines**

- (1) Clause 4(1) of the principal order is amended by inserting, after the words “is imposed”, the words “, on 1 July in each year,”.
- (2) Clause 4(2) of the principal order is revoked.

**6 New clause 5 substituted**

The principal order is amended by revoking clause 5, and substituting the following clause:

**“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).”

## 7 Refunds on change of use

Clause 6(1) of the principal order is amended by inserting, after the expression “clause 3”, the words “or clause 5”.

## 8 Refunds for ships laid up

Clause 10 of the principal order is amended by—

- (a) inserting, after the expression “clause 3”, the words “or clause 5”; and
- (b) omitting the word “either”, and substituting the word “any”; and
- (c) omitting the words “or prevented because of an industrial dispute from putting to sea,”; and
- (d) omitting from the definition of item b in the formula, the words “, or prevented from putting to sea”.

## 9 Refunds for certain offshore oil installations and oil pipelines

Clause 12 of the principal order is amended by—

- (a) inserting, after the expression “clause 4”, the words “or clause 5”; and
- (b) omitting, from the definition of item b in the formula, the words “been out of commission”, and substituting the words “not been operating”.

**10 New clauses 15A and 15B inserted**

The principal order is amended by inserting, after clause 15, the following clauses:

**“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.

**“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.”

Diane Morcom,  
Clerk of the Executive Council.

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**Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order, which comes into force on 15 July 2004, amends the Oil Pollution Levies Order 1998 (“the principal order”). The principal order imposes oil pollution levies on the owner and master of certain

ships entering New Zealand ports. The principal order also imposes oil pollution levies on the owners of certain classes of offshore oil installations and oil pipelines.

The amendments in this order—

- clarify the meaning of the term **out of commission**, in relation to ships; and
- clarify the dates on which a levy is imposed; and
- clarify how a levy is to be calculated in situations where liability for a levy arises after 1 July in any year; and
- clarify, in *new clause 15A*, when and to whom levies are payable.

In addition, *new clause 15B* is inserted into the principal order. *New clause 15B* allows any person who is required to pay a total of not less than \$50,000 in levies under the principal order and charges under the Marine Safety Charges Regulations 2000, in any particular year, to apply to the Director of Maritime Safety to pay the levies and charges jointly, by monthly or quarterly instalments. Currently these levies and charges are payable (generally) only as a lump sum in advance of the start of the year to which the levies and charges apply.

If a person does wish to pay the levies and charges by instalment, *new clause 15B(3)* requires the person to apply in accordance with regulations 10A to 10D of the Marine Safety Charges Regulations 2000.

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This order is administered in the Ministry of Transport.

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