



**OIL POLLUTION LEVIES ORDER 1998**

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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 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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 ANALYSIS

1. Title and commencement 2. Interpretation 3. Oil pollution levies on coastal trade ships and New Zealand fishing boats 4. Oil pollution levies on offshore oil installations and oil pipelines 5. Adjustments after 1 July 6. Refunds on change of use 7. Other contributing ships 8. Goods and services tax 9. Elections to pay annual levies 10. Refunds for ships laid up 11. Refunds for ships not entering port during year	12. Refunds for certain offshore oil installations and oil pipelines 13. Right to deduct other levies from refunds 14. Ships putting to sea because of adverse weather conditions 15. Liability for levies 16. Revocations
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 SCHEDULE  
 Orders Revoked

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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 Safety:

“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 IV of the Fisheries Act 1983 or Part VI of the Fisheries Act 1996:

“Oil pollution levy” and “levy” mean an oil pollution levy imposed by this order:

“Persistent oil” means crude oil, fuel oil, lubricating oil, heavy diesel oil, or any other persistent oil:

“Year” means a year ending with 30 June.

(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.

**3. Oil pollution levies on coastal trade ships and New Zealand fishing boats**—(1) An oil pollution levy for each year is imposed 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) Every oil pollution levy imposed by this clause is due and payable in advance on the day on which the liability to pay the levy arises.

**4. Oil pollution levies on offshore oil installations and oil pipelines**—(1) An oil pollution levy for each year is imposed 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) Every oil pollution levy imposed by this clause is due and payable in advance on 1 July in the year for which it is payable, unless the offshore oil installation or oil pipeline commenced operating after 1 July in that year, in which case the levy is payable on the day on which the offshore oil installation or oil pipeline commenced operations.

**5. Adjustments after 1 July**—(1) Despite clauses 3 and 4, where an oil pollution levy is payable under either of those clauses after 1 July in the year for which it is payable, the amount of the levy must be calculated in accordance with subclause (2).

(2) 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 payable under clause 3 or clause 4, if it were payable on 1 July in that year; and

b is the number of days remaining in that year, from and including the day on which the levy is payable.

**6. Refunds on change of use**—(1) Despite clause 3, 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.

**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 2000 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 9, where an oil pollution levy has been paid under either 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, or prevented because of an industrial dispute from putting to sea, 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, or prevented from putting to sea.

**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, 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 been out of commission.

**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.

**16. Revocations—**The orders specified in the Schedule are revoked.

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SCHEDULE  
ORDERS REVOKED

Cl. 16

Title	Statutory Regulations Serial Number
Oil Pollution Levies Order 1978	1978/35
Oil Pollution Levies Order 1978, Amendment No. 3	1986/239
Oil Pollution Levies Order 1978, Amendment No. 4	1996/155

MARIE SHROFF,  
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 is made under the Maritime Transport Act 1994, revokes and replaces the Oil Pollution Levies Order 1978.

This order imposes oil pollution levies on contributing ships entering New Zealand ports on the following basis:

- (a) In the case of a contributing ship that is a coastal trade ship, 111 cents per gross ton of the contributing ship and either 837 cents per gross ton, in the case of a contributing ship that is a carrier of persistent oil as cargo, or 419 cents per gross ton, in the case of a contributing ship that is a carrier of oil (other than persistent oil) as cargo;
- (b) In the case of a contributing ship that is a New Zealand fishing boat, 70 cents per gross ton of the contributing ship;
- (c) In the case of other contributing ships entering into a New Zealand port from outside the harbour limits, 1.11 cents per gross ton of the contributing ship, and either 9.78 cents per tonne of persistent oil that is carried or loaded as cargo, or 4.44 cents per tonne of oil (other than persistent oil) that is carried as cargo, whichever is the higher amount.

The owner or master of a contributing ship that is not a coastal trade ship or a New Zealand fishing boat and which does not carry a cargo of more than 2000 tonnes of oil in bulk may elect to pay an annual levy of 111 cents per gross ton of the contributing ship instead of other levies.

This order also imposes oil pollution levies on the owner of certain classes of contributing oil sites on the following basis:

- (a) In the case of an offshore oil installation that is producing, 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.

The order makes provision for the adjustment of the rates of levy payable in certain circumstances, and makes provision for refunds and the right to deduct outstanding levies from refunds.

The order comes into force on the 28th day after the date of its notification in the *Gazette*.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 19 November 1998.

This order is administered in the Ministry of Transport.