

FACT SHEET

Pollution Of Waters By Oil And Noxious Substances (Amendment) Bill 2013

The *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth gives effect in Australian waters to the International Convention for the Prevention of Pollution from Ships, commonly known as MARPOL.

The *Pollution of Waters by Oil and Noxious Substances Act 1987* of Tasmania [PWONSA] is mirror legislation to the Commonwealth Act, giving effect to the Convention in Tasmanian State waters.

Division 2AB of PWONSA deals with sewage discharge from ships within Tasmanian waters. The offence provision of that Division was apparently intended to only apply to larger cargo and passenger ships on international voyages, leaving the State's general pollution control laws to deal with significant sewage discharge events from local ships and boats.

However, recent sewage contamination events, and increasing complaints of sewage discharges from local vessels in sensitive areas, have led to a critical examination of the PWONSA provisions.

It is now apparent that the PWONSA offence provision, which prohibits the discharge of sewage from ships in Tasmanian State waters, applies to all vessels, including local cargo vessels, commercial passenger and fishing vessels, and to recreational vessels. There is currently no mechanism in the Act to allow any exemption from that offence provision.

Nevertheless, it is acknowledged that while the risks associated with discharges by local vessels may not warrant this total prohibition, some restrictions may be justified.

Over recent years, other Australian jurisdictions have put in place sewage discharge restrictions applying to local vessels, including recreational vessels. The restrictions generally relate to the risk to public health and the environment from the discharge of untreated sewage from vessels into sensitive waters.

Such a risk-based approach is now being considered in Tasmania.

It is also recognised that the views of the commercial and recreational boating community should be considered.

The Bill therefore seeks to amend Division 2AB to allow for the making of a sewage management directive, and to provide that compliance with such a directive will exempt local vessels from the existing offence provision.

The Bill also includes an amendment to the definition of "State waters" in PWONSA to keep it in line with the recently amended Commonwealth Act. That amendment in late 2012 confirms that States' responsibilities in giving effect to the nation's obligations under the MARPOL Convention, extend only to the 3 nautical mile limit from the baselines.