Australia: Increased Fines for Marine Pollution

July 2018

Club correspondents HHW Ebsworth of Sydney have provided the following article.

A new financial year brings with it an increase in the fines for those polluting Australian waters. Ship owners, charterers, masters, operators and their insurers should be aware of potential liabilities for fines in Australia on top of pollution clean up and damage claims.

As at 1 July 2018, a majority of States (and the Northern Territory) have increased their penalty unit value in accordance with their annual indexation adjustments. The Commonwealth has also completed its three year increase of the applicable penalty unit in accordance with the Consumer Price Index.

Click here for a table of the applicable fines across Australia.

The State and Territory legislation and penalties apply to oil spills that are within, or migrate to within, 3 nautical miles of the coast. Beyond 3 nautical miles the Commonwealth legislation will apply.

The discharge of oil in Commonwealth, State or Territory waters is a strict liability offence for Owners and Masters and potentially crew members and those involved in the operation and maintenance of the ship. The Commonwealth legislation expressly includes Charterers in the list of those strictly liable.

These penalty unit increases mean that the maximum fine for a spill in Commonwealth waters has increased to AUS$4.2 million for a Master and AUS$21 million for a corporate Owner or Charterer.

Both AMSA and the relevant State regulators and port authorities continue to police this area strictly. We recommend that our readers take these risks into account when involved in trade to Australia. Should a spill occur owners should take immediate steps to mitigate the physical damage and manage the resulting liabilities and penalties with care.

The HHW Ebsworth Transport Team has a wealth of knowledge in this area having handled some of the largest marine pollution prosecutions in Australia and is on hand to assist in every State and Territory of Australia.

This article was written by Joe Hurley, Partner and Cars Sacré, Special Counsel.