

## Australia - Increased Fines for Polluters

**From 1st July, many Australian states are set to increase pollution fines for those polluting Australian territorial waters.**

Ship owners, operators, charterers and masters, should be aware of potential liabilities for fines in Australia on top of pollution clean-up and damage claims.

The Club's Correspondent, HWL Ebsworth has advised that from 1st July 2020, most States, including the Northern Territories, will increase the penalty unit value in accordance with their annual CPI indexation adjustments. The Commonwealth has also completed its three-year increase of the applicable penalty unit in accordance with the Consumer Price Index.

The fines 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.

HWL Ebsworth highlighted that the discharge of oil in Commonwealth, State or Territory waters is a strict liability offence for owners and masters and potentially crew members too, plus those involved in the operation and maintenance of the ship. The Commonwealth legislation expressly also includes charterers in the list of those strictly liable.

The recent penalty unit increases mean that the maximum fine for an oil spill in Commonwealth waters has increased to AUS\$4.44 million for a Master and AUS\$22.2 million for a corporate Owner or Charterer.

Both AMSA and the relevant State regulators and port authorities continue to police this area strictly and should a spill occur whilst in Australian territorial waters, Members should take immediate steps to mitigate the physical damage and manage the resulting liabilities.



The risks are not limited to oil or bunker spills and that fines may be levied for the loss of containers into the sea. Such fines were levied in June 2020 and a summary of these can be found below:

- Section 26F of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* – Discharging of garbage into the sea contrary to the Act – Maximum penalty of A\$440,000; and
- Section 141 of the *Navigation Act 2012* – Master did not ensure that the vessel was operated in a manner that did not cause pollution to the marine environment and damage to the marine environment – Maximum penalty of AUS\$1,320,000.

Members are advised to take note of these increased fines and to ensure that the recommended pollution indemnity clause is included in charterparties. A copy of the clause and explanatory notes can be found [here](#).

A copy of a table of the applicable fines across Australia (effective from 1st July 2020) can be found [here](#) Marine Oil Pollution: Maximum Fines In Australia .