

# JAPAN P&I NEWS

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To the Members

## **Australia - Increased fines for marine polluters**

The Club has received the following update from our correspondent in Australia, HWL Ebsworth Lawyers, regarding the above-mentioned matter.

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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 \$4.2 million for a Master and \$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.

///UNQUOTE///

Yours faithfully,

**The Japan Ship Owners' Mutual Protection & Indemnity Association**

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Attachment: Oil Pollution – maximum fines in Australia as at 1 July 2018

## Oil pollution - maximum fines in Australia as at 1 July 2018

Legislation		Individual AUD	Penalty units	Corporation AUD	Penalty units
Commonwealth	<i>s9 Protection of the Sea (Prevention of Pollution from Ships) Act 1983</i> (Cth)  <i>s4AA(1) and 4B(3) Crimes Act 1914</i> (Cth)	\$4,200,000	20,000 pu at \$210/pu	\$21 million	20,000 pu at \$1,050/pu
New South Wales	<i>s15(1) Marine Pollution Act 2012</i>	\$500,000	n.a	\$10 million	n.a
Victoria	<i>s8(1) Pollution of Waters by Oil and Noxious Substances Act 1986</i> (Vic)  <i>s6 Monetary Units Act 2004</i> (Vic)	\$322,380 and/or 2 years imprisonment	2,000 pu at \$161.19/pu	\$1,611,900	10,000 pu at \$161.19/pu
Queensland	<i>s26(1) Transport Operations (Marine Pollution) Act 1995</i> (Qld)  <i>s5A Penalties and Sentences Act 1992</i> (QLD)	\$652,750	5,000 pu at \$130.55/pu	\$13,055,000	100,000 pu at \$130.55/pu
South Australia	<i>s8 Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987</i> (SA)	\$200,000	n.a	\$1,000,000	n.a
Western Australia	<i>s8 Pollution of Waters by Oil and Noxious Substances Act 1987</i> (WA)	\$50,000	n.a	\$250,000	n.a
Northern Territory	<i>s14 Marine Pollution Act 1999</i> (NT)  <i>s4 - 7 Environmental Offences and Penalties Act 1996</i>	Level 1 - \$596,750 Level 2 - \$238,700 Level 3 - \$119,350 Level 4 - \$11,935	Lvl 1 - 3,850 pu Lvl 2 - 1,540 pu Lvl 3 - 770 pu Lvl 4 - 77 pu at \$155/pu	Level 1 - \$3,010,100 Level 2 - \$1,193,500 Level 3 - \$596,750 Level 4 - \$59,675	Lvl 1 - 19,420 pu Lvl 2 - 7,700 pu Lvl 3 - 3,850 pu Lvl 4 - 385 pu at \$155/pu
Tasmania	<i>s8 Pollution of Waters by Oil and Noxious Substances Act 1987</i> (Tas)  <i>s4A Penalty Units and other Penalties Act 1987</i>	\$407,500; or 4 years imprisonment	2,500 pu at \$163/pu	\$1,630,000	10,000 pu at \$163/pu