

[REPUBLIC ACT NO. 9483, June 02, 2007]

AN ACT PROVIDING FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE 1992 INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE AND THE 1992 INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the "Oil Pollution Compensation Act of 2007".

SEC. 2. *Declaration of Policy.* - The State, in the protection of its marine wealth in its archipelagic waters, territorial sea and exclusive economic zone, adopts internationally accepted measures which impose strict liability for Oil Pollution Damage and ensure prompt and adequate compensation for persons who suffer such damage. This Act adopts and implements the provisions of the 1992 International Convention on Civil Liability for Oil Pollution Damage and the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage.

SEC. 3. *Definition of Terms.* - For the purpose of this Act:

- a. "1992 Civil Liability Convention" means the 1992 International Convention on Civil Liability for Oil Pollution Damage;
- b. "1992 Fund Convention" means the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage;
- c. "MARINA" means Maritime Industry Authority;
- d. "PCG" means Philippine Coast Guard;
- e. "PPA" means Philippine Ports Authority;
- f. "Affiliate Corporation" means a corporation that is owned or subject to common corporate control by another corporation and operated as part of the

latter's business;

g. "Contributing Oil" means crude Oil and fuel Oil as herein defined:

1. "Crude Oil" means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation. It also includes crude Oils from which certain distillate fractions have been removed (which sometimes referred to as "topped crudes") or to which certain distillate fractions have been added (sometimes referred to as "spiked" or "reconstituted" crudes); and
2. "Fuel Oil" means heavy distillates or residues from crude Oil or blends of such materials intended for use as fuel for the production of heat or power of a quality equivalent to the "American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D 396-69)" or heavier;

h. "Incident" means any occurrence or series of occurrences having the same origin which causes Pollution Damage or creates a grave and imminent threat of causing such damage: *Provided*, That a series of occurrences shall be treated as having occurred on the date of the first such occurrence;

i. "Oil" means any persistent hydrocarbon mineral Oil such as crude Oil, fuel Oil, heavy diesel Oil and lubricating Oil, whether carried on board a Ship as cargo or in bunkers of such a Ship;

j. "Owner" means the person registered as the Owner of the Ship or, in the absence of registration, the person or persons owning the Ship. However, in case of a Ship owned by a State and operated by a company which in that State is registered as the Ship's operator, "Owner" shall mean such company;

k. "Person" means any individual or partnership or any public or private body, whether corporate or not, including a State or Government or its constituent subdivisions;

l. "Pollution Damage" means:

1. Loss or damage caused outside the Ship by contamination resulting from the escape or discharge of Oil from the Ship, wherever such escape or discharge may occur: *Provided*, That compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and
2. The costs of preventive measures and further loss or damage caused by preventive measure;

m. "Preventive Measures" means any reasonable measures taken by any person after an Incident has occurred to prevent or minimize Pollution Damage;

n. "Ship" means any sea-going vessel and sea-home craft of any type whatsoever constructed or adapted for the carriage of Oil in bulk as cargo: *Provided*, That

a Ship capable of carrying Oil and other cargoes shall be regarded as a Ship only when it is actually carrying Oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of Oil in bulk aboard;

- o. "State of the Ship's registry" means in relation to registered Ships, the State of registration of the Ship and in relation to unregistered Ships, the State whose flag the Ship is flying; and
- p. "Subsidiary Corporation" means a corporation in which control, in the form of ownership of majority shares, is in another corporation, called the parent corporation.

SEC. 4. *Incorporation of the 1992 Civil Liability Convention and 1992 Fund Convention.* - Subject to the provisions of this Act, the 1992 Civil Liability Convention and 1992 Fund Convention and their subsequent amendments shall form part of the law of the Republic of the Philippines.

SEC. 5. *Scope of Application.* - This law shall apply exclusively to Pollution Damage caused in Philippine territory, including its territorial sea and its exclusive economic zone, and to preventive measures, wherever taken, to prevent or minimize such damage.

CHAPTER II

STRICT LIABILITY FOR OIL POLLUTION DAMAGE

SEC. 6. *Liability on Pollution Damage.* - The Owner of the Ship at the time of an Incident, or where the Incident consists of a series of occurrences, at the time of the first such occurrence, shall be liable for any Pollution Damage caused by the Ship as a result of the Incident. Such damages shall include, but not limited to:

- a. Reasonable expenses actually incurred in clean-up operations at sea or on shore;
- b. Reasonable expenses of Preventive Measures and further loss or damage caused by preventive measures;
- c. Consequential loss or loss of earnings suffered by Owners or users of property contaminated or damaged as a direct result of an Incident;
- d. Pure economic loss or loss of earnings sustained by persons although the property contaminated or damaged as a direct result of an Incident does not belong to them;
- e. Damage to human health or loss of life as a direct result of the Incident, including expenses for rehabilitation and recuperation: *Provided*, That costs of studies or diagnoses to determine the long-term damage shall also be included; and
- f. Environmental damages and other reasonable measures of environmental restoration.

SEC. 7. *Exempting Circumstances.* - No liability as stated in the immediately preceding section shall attach to the Owner or his insurer if he proves that the damage:

- a. Resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;
- b. Was wholly caused by an act or omission done with intent to cause damage by third party; and
- c. Was wholly caused by the negligence or other wrongful act of the government or other enforcement agencies responsible for the maintenance of lights or other navigational aids in the exercise of that function. If the Owner proves that the Pollution Damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the Owner may be exonerated wholly or partially from his liability to such person.

SEC. 8. *Persons Exempted from Claims for Compensation for Pollution Damage.* - No claim for compensation Pollution Damage under this Act may be made against:

- a. The servants or agents of the Owner or the members of the crew;
- b. The pilot or any other person who, without being a member of the crew, performs services for the Ship;
- c. Any charterer, howsoever described, including a bareboat charterer, manager or operator of the Ship;
- d. Any person performing salvage operations with the consent of the Owner or on the instructions of a competent public authority;
- e. Any person taking Preventive Measures; and
- f. All servants or agents of persons mentioned in paragraphs (c), (d) and (e) hereof, unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or committed recklessly and with knowledge that such damage would probably result: *Provided*, That nothing in this Act shall prejudice any right of recourse of the Owner against third parties.

SEC. 9. *Joint and Several Liability.* - When an Incident involving two or more Ships occurs and Pollution Damage results therefrom, the Owners of all the Ships concerned, unless exonerated under Section 7 hereof, shall be jointly and severally liable for all such damage which is not reasonably separable, without prejudice, however, to the right of recourse of any of such Owners to proceed against each other or third parties.

CHAPTER III

SYSTEM OF LIMITATION OF LIABILITY

SEC. 10. *Limitation of Liability.* - The Owner shall be entitled to limit his liability

under this Act with respect to a particular Incident to a total amount calculated as follows:

- a. Three million (3,000,000) units of account for a Ship not exceeding five thousand (5,000) units of tonnage;
- b. For a Ship with a tonnage in excess thereof, for each unit of tonnage, four hundred twenty (420) units of account for each unit in addition to the amount mentioned in paragraph (a): *Provided, however,* That this aggregate amount shall not, in any event, exceeds 59.7 million units of account: *Provided, further,* That the limit of liability of the Owner as aforementioned shall be subject to adjustment according to subsequent amendments to the 1992 Civil Liability Convention.

The limited liability, under this Section may not be availed of by the Owner if it has been established that such Pollution Damage resulted from his personal act or omission, committed with intent to cause such damage, or committed recklessly and with knowledge that such damage would probably result.

The "unit of account" referred to in this Section is the Special Drawing Right (SDR) as defined by the International Monetary Fund as set forth in the 1992 Civil Liability Convention. The said amount shall be converted into national currency on the basis of the value of the currency by reference to the SDR on the date that the fund is constituted under Section 11 of this Act.

The SDR is an international reserve asset, created by the IMF in 1969 to supplement the existing official reserves of member countries. SDRs are allocated to member countries in proportion to their IMF quotas. The SDR also serves as the unit of account of the IMF and some other international organizations. Its value is based on a basket of key international currencies.

SEC. 11. *Constitution of a fund.* - For the purpose of availing himself of the benefit of limitation provided for under Section 10 of this Act following the occurrence of a particular Incident, the Owner shall be required to constitute a fund for the total sum representing the limit of his liability with the Maritime Industry Authority (MARINA) to cover Incidents causing Pollution Damage: *Provided,* That any claim for compensation from Pollution Damage shall be brought directly to the Regional Trial Courts (RTC).

The fund can be constituted by depositing the sum or by producing a bank guarantee or other financial guarantee acceptable under existing laws and considered to be adequate by the Department of Transportation and Communications (DOTC).

CHAPTER IV

SYSTEM OF COMPULSORY INSURANCE AND CERTIFICATION

SEC. 12. *Maintenance of Compulsory Insurance or Other Financial Security.* - All Owners shall be required annually by the MARINA to maintain insurance or other financial security for Pollution Damage in the sums fixed by applying the limits of