

S. No. 2600
H. No. 4363

Republic of the Philippines
Congress of the Philippines
Metro Manila

Thirteenth Congress

Third Special Session

Begun and held in Metro Manila, on Monday, the nineteenth day of
February, two thousand seven.



[REPUBLIC ACT NO. **9483**]

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 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 for 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 liability under Section 10 of this Act.

SEC. 13. *Issuance of a Certificate.* – A certificate attesting that an insurance or any other financial security is in force in accordance with the provisions of this Act shall be issued to each Ship carrying more than two thousand (2,000) tons of Oil in bulk as cargo by the MARINA. With respect to a Ship not registered in a convention-member State, such certificate may be issued or certified by the MARINA. This certificate shall be in the form established by the 1992 Civil Liability Convention and shall contain the following particulars:

- (a) Name of Ship and port of registration;
- (b) Name and principal place of business of the Owner;
- (c) Type of security;
- (d) Name and principal place of business of the insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
- (e) Validity period of the certificate which shall not be longer than the period of validity of the insurance or other financial security.

SEC. 14. *Enforcement.* – Ship carrying more than two thousand (2,000) tons of Oil in bulk as cargo shall not be allowed entry into Philippine territory or its exclusive economic zone without a valid certificate of insurance or financial security for Pollution Damage required by this Act.

For this purpose, the PPA or any other port authorities shall deny port services to said Ship without such certificate.

If any such Ship is found within the said territory or zone without such certificate, said Ship shall be prevented from loading or unloading its cargo until it is able to produce the appropriate insurance or financial security duly certified by the State of its registry if such country is a convention-member State, otherwise, issued or certified by the MARINA or any convention-member State.

The Owner and master of the Ship referred to in the immediately preceding paragraph shall be jointly and severally liable to the fines set forth in this Act. Such Ship shall be prevented from leaving unless the appropriate fines shall have been paid to the full satisfaction of the MARINA.

The PCG shall conduct inspections of certificates of Ships entering the territory of the Philippines, or, in the case of Ships registered in the Philippines voyaging within the said territory: *Provided*, That such inspections shall not cause undue delay to the Ships.

CHAPTER V

CONTRIBUTION TO THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND

SEC. 15. *Contributions to the International Oil Pollution Compensation (IOPC) Fund.* – Any person who has received more than one hundred fifty thousand (150,000) tons of contributing Oil in a calendar year in all ports or terminal installations in the Philippines through carriage by sea, shall pay contributions to the International Oil Pollution

Compensation (IOPC) Fund in accordance with the provisions of the 1992 Fund Convention.

A person shall be deemed to have received contributing Oil, for contribution purposes, if he received the same:

(a) From another country; or

(b) From another port or terminal installation within the Philippines, notwithstanding that it had already been previously received by him.

Where the quantity of contributing Oil received by any person in the Philippines in a calendar year, when aggregated with the quantity of contributing Oil received in the Philippines in that year by its subsidiary or affiliate corporation, exceeds one hundred fifty thousand (150,000) tons, said person, including its subsidiaries, shall pay contributions in respect of the actual quantity received by each, notwithstanding that the actual quantity received by each did not exceed one hundred fifty thousand (150,000) tons.

SEC. 16. *Reporting of Contributing Oil.* – Any person who, in a calendar year, has received in the territory of the Philippines contributing Oil, as defined in this Act, shall, not later than February 1 of the following year, report to the Department of Energy (DOE) the quantity of such Oil received. The DOE, through the Department of Foreign Affairs, shall communicate the data at a time and in the manner prescribed by the 1992 Fund Convention.

CHAPTER VI

ACTION FOR COMPENSATION

SEC. 17. *Action for Compensation.* – An action for compensation on account of Pollution Damage resulting from the Incident which occurred in the territory may be brought before the RTC against the following persons:

(a) Owner of the polluting Ship; or

(b) Insurer or other person providing financial security of the said Owner's liability for pollution.

For this purpose, foreign corporation, partnership, association or individual, whether or not licensed to transact business in the Philippines by any appropriate government agencies, providing such insurance or financial security for Pollution Damage shall be considered transacting or doing business in the Philippines and shall be subject to the jurisdiction of the regular judicial courts of the country.

Such action shall be filed within three years of the date on which the damage occurred, but not later than six years of the date of the Incident.

The PCG shall investigate, *motu proprio* or through written undertaking of a complainant, any Incident, claim for compensation or violation of this Act, and shall forthwith file appropriate action with the RTC.

It shall likewise provide the complainant necessary technical evidence or any assistance, whether or not testimonial or documentary, insofar as the claim for compensation or violation of this Act is concerned.

Filing of the action under this section shall only require payment of filing fees equivalent to ten *per centum* (10%) of the regular rates established therefore by the Supreme Court of the Philippines. However, indigent plaintiffs shall be exempt from payment of docket and other lawful fees, and of transcripts of stenographic notes which the court may order to be furnished him. The amount of the docket and other lawful fees which the indigent was exempted from paying shall be a lien on any judgment rendered in the case favorable to the indigent, unless the court otherwise provides.

SEC. 18. *Adjudication or Settlement of Claims.* - The RTC shall decide claims for compensation or certify the compromise agreement by the parties within a reasonable period.

Where compensation was not obtained or satisfied under the 1992 Civil Liability Convention, the claimant may seek compensation under the 1992 Fund Convention. The RTC shall furnish the IOPC Fund with its certified decision, together with pertinent documents, on a claim for Pollution Damages.

Where the fund under the 1992 Civil Liability Convention is insufficient to satisfy the claims of those who are entitled to compensation, the amount of compensation of each claimant shall be distributed *pro rata*.

SEC. 19. *Intervention by the IOPC Fund.* – The IOPC Fund may intervene as a party to any legal proceedings instituted against the Owner of a Ship or his guarantor under Article IX of the 1992 Civil Liability Convention.

CHAPTER VII

PENALTY PROVISIONS

SEC. 20. *Violation of the Act.* – The following acts shall be considered violations of the Act and the persons responsible shall suffer the corresponding fines:

(a) Any person who fails to institute or maintain insurance or other financial security required under Section 12 of this Act;

(1) Ships of 500 gross tons (GRT) and below - not less than One hundred thousand pesos (P100,000.00) but not more than Two hundred fifty thousand pesos (P250,000.00);

(2) Ships of above 500 to 1,000 GRT - not less than Two hundred fifty thousand pesos (P250,000.00) but not more than Five hundred thousand pesos (P500,000.00);

(3) Ships of above 1,000 to 5,000 GRT - not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

(4) Ships of above 5,000 to 10,000 GRT - not less than One million pesos (P1,000,000.00) but not more than Five million pesos (P5,000,000.00);

(5) Ships of above 10,000 to 20,000 GRT - not less than Five million pesos (P5,000,000.00) but not more than Ten million pesos (P10,000,000.00); and

(6) Ships of above 20,000 GRT - not less than Ten million pesos (P10,000,000.00) but not more than Fifteen million pesos (P15,000,000.00).

(b) The Owner and the master of a Ship who operate a Ship without maintaining on board a certificate of insurance required under Section 13 of this Act:

(1) First violation - Five hundred thousand pesos (P500,000.00);

(2) Second violation - One million pesos (P1,000,000.00); and

(3) Third violation - One million five hundred thousand pesos (P1,500,000.00).

(c) Any person required under Section 15 of this Act to contribute to the IOPC Fund but nevertheless fails to comply therewith after due notice by the MARINA:

(1) First violation - Three million pesos (P3,000,000.00);

(2) Second violation - Four million pesos (P4,000,000.00); and

(3) Third violation - Five million pesos (P5,000,000.00).

(d) Failure to Submit Report of Contributing Oil. - Any person required under Section 16 of this Act to submit report of contributing Oil and notwithstanding 10-day notice thereto, fails to comply therewith:

(1) First violation - Five hundred thousand pesos (P500,000.00);

(2) Second violation - One million pesos (P1,000,000.00); and

(3) Third violation - One million five hundred thousand pesos (P1,500,000.00).

(e) Any person who shall refuse, obstruct, or hamper the entry of the duly authorized representatives of the Department or any person authorized under this Act aboard any Ship or establishment pursuant to this Act shall be liable to pay a fine not exceeding One hundred thousand pesos (P100,000.00); and

(f) Any Ship apprehended for violation of this Act may be subjected to detention.

The fines prescribed in this Section and other sections of this Chapter shall be increased by at least ten percent (10%) every three years to compensate for inflation and to maintain the deterrent function of such fines.

SEC. 21. *Institutional Mechanism.* – The DOTC shall be the lead implementing agency unless otherwise provided in this Act.

CHAPTER VIII

FINAL PROVISIONS

SEC. 22. *Oil Pollution Management Fund.* – An Oil Pollution Management Fund (OPMF) to be administered by the MARINA is hereby established. Said Fund shall be constituted from:

(a) Contributions of Owners and operators of tankers and barges hauling Oil and/or petroleum products in Philippine

waterways and coast wise shipping routes. During its first year of existence, the Fund shall be constituted by an impost of ten centavos (10c) per liter for every delivery or transshipment of Oil made by tanker barges and tanker haulers. For the succeeding fiscal years, the amount of contribution shall be jointly determined by Marina, other concerned government agencies, and representatives from the Owners of tankers barges, tankers haulers, and Ship hauling Oil and/or petroleum products. In determining the amount of contribution, the purposes for which the fund was set up shall always be considered; and

(b) Fines imposed pursuant to this Act, grants, donations, endowment from various sources, domestic or foreign, and amounts specifically appropriated for OPMF under the annual General Appropriations Act.

The Fund shall be used to finance the following activities:

(a) Immediate containment, removal and clean-up operations of the PCG in all Oil pollution cases, whether covered by this Act or not; and

(b) Research, enforcement and monitoring activities of relevant agencies such as the PCG, MARINA and PPA, and other ports authority of the DOTC, Environmental Management Bureau of the DENR, and the DOE: *Provided*, That ninety percent (90%) of the Fund shall be maintained annually for the activities set forth under item (a) of this paragraph: *Provided, further*, That any amounts specifically appropriated for said Fund under the General Appropriations Act shall be used exclusively for the activities set forth under item (a) of this paragraph.

In no case, however, shall the Fund be used for personal services expenditures except for the compensation of those involved in clean-up operations.

Provided, That amounts advanced to a responding entity or claimant shall be considered as advances in case of final adjudication/award by the RTC under Section 18 and shall be reimbursed to the Fund.

SEC. 23. *Appropriations.* – The Secretary of the DOTC shall include in the Department's program the implementation of this Act, the funding of which shall be included in the annual General Appropriations Act.

SEC. 24. *Implementing Rules and Regulations.* – The DOTC, in coordination with other concerned agencies and sectors, shall, within three months after the effectivity of this Act, promulgate rules and regulations for the effective implementation of this Act. A manual providing for the procedures concerning the enforcement of claims under this Act shall, likewise, be developed within the said period.

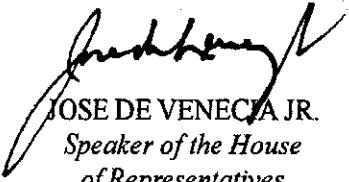
The said rules and regulations and manual shall be published in a newspaper of general circulation also within the said period.


SEC. 25. *Separability Clause.* – In the event that any provision of this Act is declared unconstitutional, the validity of the remainder shall not be affected thereby.

SEC. 26. *Repealing Clause.* – All laws, decrees, rules and regulations and executive orders contrary to or inconsistent with this Act are hereby repealed or modified accordingly.

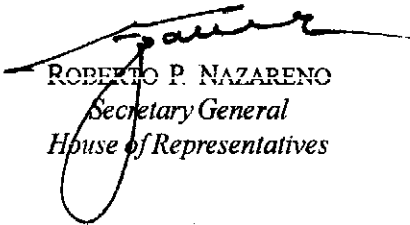
SEC. 27. *Effectivity Clause.* – This Act shall take effect after the completion of its publication made once a week for three consecutive weeks in at least two newspapers of general circulation.


Approved,


JOSE DE VENECIA JR.
*Speaker of the House
of Representatives*



MANNY VILLAR
President of the Senate

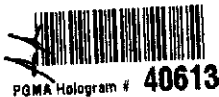
This Act which is a consolidation of Senate Bill No. 2600 and House Bill No. 4363 was finally passed by the Senate and the House of Representatives on February 19, 2007 and February 20, 2007 respectively.


ROBERTO P. NAZARENO
*Secretary General
House of Representatives*


OSCAR G. YABES
Secretary of the Senate

Approved: JUN 02 2007


GLORIA MACAPAGAL-ARROYO
President of the Philippines



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