



LP Bulletin

Friday 28th December 2012

Bulletin 861 - 12/12 – New Federal Fine Amounts - Australia

The Australian Government has moved to increase the maximum value of monetary fines for federal criminal offences across the board. This increase comes on top of recent very substantial increases in fines for pollution offences in particular.

Maximum monetary penalties for offences under federal legislation are set by reference to “penalty units”. A single statutory provision then defines a “penalty unit” as being a specific dollar amount. The value of the penalty unit has not changed since 1997, and the proposed increase (of more than 50%), is intended to incorporate all changes in the Consumer Price Index (CPI) since then.

From 28 December 2012, the value of a penalty unit will increase from A\$110 to A\$170. The new penalty unit value will not be retroactive, and will only apply to offences which are committed on or after 28 December 2012.

Whilst the increase in the value of a penalty unit will not necessarily result in a proportional increase in the actual amount of fines imposed for federal offences, it will result in significant increases to the maximum penalties applicable and some increase in the amount of fines imposed by courts will almost certainly occur.

To illustrate the changes, we include below some common federal shipping-related offences with their current and new maximum fine amounts.

Offence	New fine	Old fine
<u>Navigation offences</u>		
Taking unseaworthy vessel to sea – corporate owner	\$5.1M	\$3.3M
Taking unseaworthy vessel to sea – master	\$1.02M	\$660,000
Operating vessel in breach of COLREGS – master	\$1.02M	\$660,000
<u>Oil Pollution offences</u>		
Discharge of oil into the sea (strict liability) – master	\$3.4M	\$2.2M
Discharge of oil into the sea (strict liability) – corporate owner, operator or charterer	\$17M	\$11M

Garbage Pollution offences

Disposal of garbage into the sea (strict liability) – master	\$85,000	\$55,000
Disposal of garbage into the sea (strict liability) – corporate owner	\$425,000	\$275,000
Disposal of garbage into the sea (reckless or negligent) – individual	\$340,000	\$220,000

Great Barrier Reef Marine Park offences

Prohibited conduct in a zone – individual	\$170,000	\$110,000
Prohibited conduct in a zone with aggravation – individual	\$340,000	\$220,000
Liability for vessel committing an offence (strict liability) – master	\$85,000	\$55,000
Liability for vessel committing an offence (strict liability) – corporate owner	\$425,000	\$275,000

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