



**AN BILLE UM OLA-THRUAILLIÚ NA FARRAIGE (DLITEANAS
SIBHIALTA AGUS CÚITEAMH), 1987**

**OIL POLLUTION OF THE SEA (CIVIL LIABILITY AND COM-
PENSATION) BILL, 1987**

EXPLANATORY AND FINANCIAL MEMORANDUM

1. The main objects of this Bill are to ensure that oil tankers entering or leaving Irish ports have adequate insurance to cover their liability for oil pollution damage, to provide supplemental cover where oil tankers owners' liability is exceeded and to provide a legal framework for recovery of costs connected with oil pollution incidents. The Bill and consequential regulations will enable Ireland to become a party to the following international conventions and the 1976 protocols thereto.

Civil Liability Convention 1969 (CLC)

This Convention obliges owners of ships carrying oil in bulk as cargo to have appropriate insurance to cover liability to a specified limit for oil pollution damage. The liability limit is £116 approx. per ton up to a maximum of £12 million approx. whichever is the lesser.

Fund Convention 1971 (FC)

This Convention provides for establishment of a Fund financed by oil companies for payment of compensation for oil pollution where shipowners' liability is exceeded up to a current overall maximum of £46 million approx.

The 1976 Protocols made amendments of a technical nature to the two Conventions.

At present Ireland is reliant on voluntary international schemes for compensation in the event of oil pollution damage from ships carrying oil in bulk as cargo. These agreements are the Tanker Owners Voluntary Agreement on Liability for Oil Pollution (TOVALOP) and a Contract Regarding a Supplement to Tanker Liability for Oil Pollution (CRISTAL). TOVALOP and CRISTAL were intended to be interim solutions and to remain in operation only until the Civil Liability and Fund Conventions had worldwide application. While the scope of TOVALOP and CRISTAL is similar to that of the international conventions, it is not possible to incorporate their provisions into national law.

3. A summary of the provisions of the Bill is outlined in the following paragraphs.

4. In the event of damage from oil pollution, owners of laden oil tankers will have strict liability for such damage except in a few particular cases namely when the damage results from an act of war or a grave natural disaster, or the damage is wholly caused by sabotage by a third party or the damage is wholly caused by the failure of authorities to maintain navigational aids. If the oil pollution damage is proved to have been due to the personal fault of the tanker owner, he will not be able to limit his liability.

5. The supplementary compensation available under the Fund Convention becomes payable if claimants are unable to obtain full compensation under the Civil Liability Convention for one of the following reasons:—

—no liability arises under the Civil Liability Convention

—the owner is financially incapable of meeting his obligations under the Civil Liability Convention and his insurance is inadequate

—the damage exceeds the owner's liability under the Civil Liability Convention

However, the Fund Convention does not have to pay compensation if the pollution damage resulted from an act of war or if it cannot be proved that the damage resulted from an incident involving one or more ships or was due to the wilful misconduct or personal fault of the owner.

6. Where a shipowner applies to a court to limit his liability in accordance with the provisions of the Bill, the court may order the payment into the court an amount equal to the liability limit of the owner.

7. Ships carrying 2,000 tonnes or over of oil in bulk as cargo must carry insurance certificates showing that the vessels have appropriate insurance cover. As regards the supplemental cover of the Fund Convention, receivers of crude oil and heavy fuel will have to make contributions to the Fund established under the Fund Convention to cover the compensation and indemnification payments and administrative expenses of the Fund.

8. Where a ship has incurred a liability for oil pollution damage, any other ship in the State which has the same owner may be detained.

If a ship does not have the required insurance certificate, it may also be detained. Inspectors appointed by the Minister for the Marine, surveyors of ships of the Department of the Marine, Sea Fisheries Protection Officers and harbour-masters may carry out inspections of ships to ensure that the required insurance certificate is carried on board.

9. If oil receivers do not pay the required contributions to the Fund, the Fund Director may recover the sums due with interest through the courts.

10. For offences under the Bill, penalties rise from a fine not exceeding £1,000 or imprisonment not exceeding 12 months or both to a fine not exceeding £1,000,000 or imprisonment not exceeding 5 years or both.

11. It is anticipated that no additional Exchequer costs will be incurred in implementing this Bill when it is enacted. It is also anticipated that there will be no staff implications for Departments of State, State bodies and local authorities.

*Roinn na Mara,
Deireadh Fómhair, 1987.*