

**MARINE POLLUTION LEGISLATION AMENDMENT BILL
(Serial 109)**

Ms LAWLER (Environment and Natural Resources): The scrutiny committee's final report includes three recommendations. The first proposes passage of the bill with amendments. Recommendations two and three identify the amendments required and reflect the advice provided by my department to the committee during the inquiry.

The amendments to the bill that I am introducing here today address the issues raised by the scrutiny committee and some other matters identified during the drafting of the Assembly amendment. Some additional minor amendments to the bill are also included.

I will now talk to the Assembly amendments that address the report's recommendations and other matters that will support the overall intent and purpose of the act.

The first amendment put forward by the committee relates to the application, as provided in section 4 of the act, and the observation that the territorial jurisdiction of the legislation may be limited only to when a ship is actually located within Territory coastal waters. Section 4 of the act states that the act applies to all ships in coastal waters—meaning Territory coastal waters. This raises uncertainty about the application of the act in circumstances where a ship discharges pollutants outside Territory coastal waters, but the pollutants then enter our coastal waters. It is clear that the act intends to apply to ships outside Territory coastal waters if they discharge pollutants that enter coastal waters.

Section 9 of the act states that a discharge of a pollutant that happens outside coastal waters is taken to be a discharge in coastal waters if the discharged pollutants enter coastal waters. Furthermore, the limited application will potentially restrict a person's status as an agent under the act for the periods of time when a ship is in coastal waters. This does not support the intent of the legislative amendments of a ship's geographical location not having a bearing on the status of a person as an agent of a ship's owner.

To address the limitations identified with section 4, the Assembly amendment being tabled here today proposes to remove the extra territorial limitation. The Assembly amendment will ensure that the act applies to all ships in coastal waters, all ships outside coastal waters that are on a voyage to or from the Territory and all ships that discharge a pollutant to which section 9 of the act applies. This amendment aligns with recommendation two of the scrutiny committee's report.

The second amendment suggested by the scrutiny committee relates to the proposed meaning of 'agent' in section 8. The expert review identified a concern that the proposed new meaning of 'agent' is not completely clear in specifying that a person remains an agent after completing an activity of an agent or the performance of a function for a ship. This creates uncertainty about whether a person could be identified as an agent under the act at all relevant times. To address this concern, the committee recommends amendments to section 8(2) that identify that a person will remain an agent of a ship owner for the duration of the voyage and while the ship is in the Territory.

The Assembly amendment being proposed addresses this recommendation by inserting new subsection 8(2)(a) and 8(2)(b). Subsection 8(2)(a) identifies that any arrangement made or function performed by an agent includes activities that are preparatory to the ship's voyage.

Subsection 8(2)(b) identifies that a person is the agent of the ship owner for the duration of the voyage including during the time the ship is in the Territory or any period of the ship's voyage that is outside coastal waters.

To support these amendments subsection 8(2) is being revised to ensure that agents related to ships which section 9 of the act applies can be identified as agents irrespective of whether the ship is on a voyage to or from the Territory or the person is acting as an agent in the Territory or elsewhere in Australia.

This is important because we need to account for the possibility of ships operating outside of the Territory, for example in northern Queensland or Western Australian coastal waters being the source of pollutants entering Territory coastal waters. In such circumstances, the ship owner may not have an agent in the Territory because the ship does not enter a Territory port. However, an agent of the ship owner may be able to be identified elsewhere in Australia which will allow for service of documents under the act should the need arise.

This amendment aligns with recommendation 3 of the scrutiny committee's report and supports the changes to section 4 of the act. Other minor amendments being proposed here today relate to ambiguity in the bill concerning when a document is unable to be served on the master of a ship and corrections to the bill due to a reference error and a superseded amendment.

This government is committed to ensuring we have the very best legislation and processes in place to protect our environment. The amendments being introduced by this bill and associated Assembly amendments strengthen the Territory's ability to respond to ship-source pollution incidents in our marine and coastal environments.

The Territory has seen an increase in shipping associated with economic development and industry. We need to ensure this is complemented by good legislation that allows the Territory to be an effective regulator and protector of one of our greatest natural assets.

I thank each of my colleagues, the Leader of the Opposition, the members for Nelson and Nhulunbuy for speaking on this bill. I thank the scrutiny committee and persons who took the time to review and comment on this bill.

Motion agreed to; bill read a second time.